

Court No. - 79

Case :- CRIMINAL REVISION No. - 3591 of 2023

Revisionist :- Nikhil Chandra

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Mohnish Chandra, Agnivesh

Counsel for Opposite Party :- G.A., Manav Chaurasia, Pramod Kumar Srivastava

Hon'ble Vipin Chandra Dixit, J.

Heard Sri J.N. Yadav, learned Advocate holding brief of Sri Mohnish Chandra, learned counsel for the revisionist, learned A.G.A. for the State, Sri Ajay Pandey, learned Advocate holding brief of Sri Manav Chaurasia, learned counsel appearing on behalf of opposite party no. 2 and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 11.05.2023, passed by Additional Principal Family Judge-III, Allahabad, in Case No. 1248 of 2019 (Gunja Kumari vs. Nikhil Chandra), by which the revisionist was directed to pay Rs. 6,200/- per month as interim maintenance to opposite party no. 2, who is wife of revisionist from the date of application.

It is submitted by learned counsel for the revisionist that the maintenance awarded by the learned family court to the opposite party no. 2 is very excessive and without considering the monthly income of the revisionist. It is further submitted that the learned family court has also failed to consider the comparative hardship of the revisionist while awarded the excessive maintenance.

On the other hand learned counsel appearing on behalf of opposite party no. 2 has submitted that the revisionist is working as Cashier in Bank of India and is getting salary of Rs. 70,000/- per month. As per income tax return, the annual income of revisionist is 7,26,361/- and as such, the interim maintenance awarded by the learned court below cannot be said to be excessive in any manner rather it is in lower side.

Admittedly, the opposite party no.2 is legally married wife of revisionist. The revisionist being husband of opposite party no. 2 is morally bound to discharge his legal obligation of maintaining his wife in any circumstances. The husband cannot be heard to say

that he is not in a position to earn enough to be able to maintain his wife. In the present case as the revisionist has not frankly disclosed his income, an adverse inference can be drawn against him.

Now it is the settled position of law that when the husband does not disclose to the court the exact amount of his income and the question of maintenance of wife and children arises, the presumption would be against the husband and the obligation of the husband is on a higher pedestal.

Considering the facts and circumstances of the case and keeping in mind the spiraling inflation rate and high cost of living index, the Court is of the view that maintenance at the rate of Rs. 6,200/- per month in favour of the wife cannot be treated to be on higher side rather it is too meagre.

In view of above, there is no illegality, infirmity or perversity in the impugned order which may warrant any interference by this Court. No ground for interference is made out. The criminal revision filed by husband is liable to be dismissed.

The criminal revision is dismissed, accordingly.

Order Date :- 24.11.2023
sailesh