

Court No. - 79

Case :- CRIMINAL REVISION No. - 3766 of 2023

Revisionist :- Suresh

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

Counsel for Revisionist :- Sushil Kumar Shukla

Counsel for Opposite Party :- G.A., Balwant Singh

Hon'ble Vipin Chandra Dixit, J.

Heard Sri Sushil Kumar Shukla, learned counsel for the revisionist, learned A.G.A. for the State and Sri Balwant Singh, learned counsel for the opposite party no.2.

This criminal revision has been filed against the judgement and order dated 09.05.2023 passed by learned Principal Judge, Family Court, Bghpat in Case No. 152 of 2021 by which the application filed by opposite party no.2 under Section 125 Cr.P.C. was allowed and revisionist was directed to pay 3,000/- per month to opposite party no.2.

It is submitted by learned counsel for the revisionist that opposite party no.2 has left the house of revisionist without any sufficient reason and revisionist has already filed petition under Section 9 of Hindu Marriage Act. The dispute arose between the parties after about 20 years of marriage and opposite party no.2 started living at her parental house. It is further submitted that opposite party no.2 is not entitled for any maintenance in view of Section 125(4) Cr.P.C. as she left the house of revisionist without there being any sufficient reason.

On the other hand, learned counsel for the opposite party no.2 submits that the opposite party no.2, who is wife of revisionist was badly tortured by her husband on account of demand of dowry. The issue no.2 has been decided by the learned Family Court after considering the entire evidence and materials which are available on record and finding has been recorded that there is sufficient reason to opposite party no.2 to live separately. It is further submitted that a meagre amount of Rs. 3,000/- per month has been awarded by learned Family Court.

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 and children. 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.3,000/- 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 :- 17.10.2023

Virendra