

Court No. - 79

Case :- CRIMINAL REVISION No. - 3467 of 2022

Revisionist :- Naveen Kumar Verma

Opposite Party :- State Of U.P. And 3 Others

Counsel for Revisionist :- Prateek Kumar Srivastava, Deeksha Gupta, Suresh Kumar, Sr. Advocate

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

Hon'ble Vipin Chandra Dixit, J.

Heard Sri V.P. Srivastava, learned Senior Advocate assisted by Sri Prateek Kumar Srivastava, learned counsel for the revisionist, learned AGA appearing for the State and Sri I.K. Chaturvedi, learned Senior Advocate assisted by Sri Dharendra Singh, learned counsel for opposite party Nos. 2 to 4 and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 19.7.2022 passed by learned Principal Judge, Family Court, Allahabad in Case No. 824 of 2017 (Smt. Kiran Verma & others vs. Naveen Kumar verma) by which application filed by opposite party nos. 2 to 4 under Section 125 Cr.P.C was allowed and the revisionist was directed to pay maintenance of Rs.18,000/- per month to his wife-opposite party no.2 and Rs.12,000/- per month each to his minor daughters-opposite party nos.3 & 4 from the date of application till the date of judgment i.e. 19.7.2022 and thereafter Rs.20,000/- per month to wife-opposite party no.2 and Rs.15,000/- per month each to his minor daughters-opposite party nos.3 & 4.

Brief facts of the case are that opposite party nos. 2 to 4 had filed application under Section 125 Cr.P.C. claiming maintenance at the rate of Rs.30,000/- per month in favour of wife and Rs.15,000/- per month in favour of two minor daughters against revisionist who is husband of applicant No.1/opposite party no.2 and father of applicant nos. 2 & 3/opposite party nos. 3 & 4. It is alleged by the wife/applicant no.1 therein that marriage of applicant no.1 was solemnized with opposite party-Naveen Kumar Verma(revisionist) on 6.1.2007 as per Hindu Rites and Customs. Applicant Nos.2 & 3 Navya Verma and Manyu Verma aged about 7 years and 3 years respectively, were born out of wedlock of applicant no.1/opposite party no.2 and opposite party-revisionist. It is further alleged that wife was being tortured by her husband-revisionist on account of

demand of dowry. The revisionist was also in illicit relationship with one Neha. Opposite party no.2 alongwith daughters has left the house of her husband on 22.5.2017 and since then she is residing with her parents. The monthly income of the revisionist-husband was alleged as Rs.1,30,000/- per month.

The revisionist had appeared before the Family Court and filed his objection which is paper no. 19-Ka denying the allegations made in the application under Section 125 Cr.P.C. It is pleaded that wife had left the house of revisionist without there being any sufficient reason and she voluntarily resides at parental house with daughters. It is further pleaded by the husband in his objection that the wife is an educated lady having degree of MBA and she is presently working as a teacher in St. Anthony Convent Girls Inter College, Allahabad and getting salary of Rs.15,000/- per month. The wife is also earning Rs.15,000/--20,000/- per month from tuition and she is able to maintain herself as well as her daughters and application filed by wife under Section 125 Cr.P.C. is not maintainable. The revisionist is working at Tata Consultancy Services and is getting salary of Rs.41,100/- per month. The revisionist has also filed his pay-slip which is paper No.62-Kha/3.

The opposite party no.2-wife had appeared before the Family Court as P.W.-1 and had also produced Sabhajeet Verma, who is father of opposite party no.2 in support of her case. The revisionist appeared as D.W.-1. The learned Family Court, after considering the entire evidence and materials which are available on record, has recorded the finding while deciding issue no.1 that there is sufficient reason for the wife to live separately on account of demand of SUV car as well as illicit relationship with one Neha. The Family Court has also recorded the finding while deciding issue no.2 in favour of wife holding that wife is unable to maintain herself as well as two minor daughters. The learned Family Court while deciding issue no.3 has assessed the income of revisionist-husband after considering the income tax return which is available on record for the assessment year 2021-2022 as Rs.2,24,138/- per month and has allowed the application filed on behalf of opposite party nos. 2 to 4.

Sri V.P. Srivastava, learned Senior Advocate appearing on behalf of the revisionist has submitted that application filed by wife under Section 125 Cr.P.C. is not maintainable as she voluntarily left the house of her husband and lived separately without any sufficient reason, in view of section 125(4) Cr.P.C. The husband had also filed application under Section 9 of Hindu Marriage Act for restitution of Conjugal Rights and despite best efforts, the wife

has denied to live with the revisionist. It is further submitted that opposite party no.2 is a working lady having handsome income from salary as well as from tuition and is able to maintain herself as well as her daughters, but this important aspect of the matter was not considered by the learned Family Court while deciding application under Section 125 Cr.P.C. Lastly, it is submitted that the learned Family Court has erred in awarding very excessive amount of maintenance in favour of wife and minor children ignoring monthly income of the revisionist, which is Rs.41,100/- per month.

On the other hand, Sri I.K. Chaturvedi, learned Senior Advocate appearing on behalf of opposite party nos. 2 to 4 has submitted that opposite party no.2 who is wife of revisionist was being badly tortured by her husband on account of non-fulfilment of demand of dowry and the revisionist was in illicit relationship of another woman namely, Neha and despite best efforts made by wife, the revisionist was not ready to break-up the relationship with Neha and as such, the wife had no option except to live separately. The learned trial court after considering the evidence adduced by the parties has rightly decided that there was sufficient reason for the wife to live separately from her husband. The learned Family Court, after considering the income tax return of the revisionist for the assessment year 2021-2022 has awarded just maintenance. The learned trial court has awarded just amount of maintenance in favour of wife and minor daughters looking the monthly income of the revisionist. No ground for interference is made out and the criminal revision filed by the revisionist is liable to be dismissed.

Considered the rival submissions of learned counsel for the parties and perused the record.

Admittedly, opposite party no.2 is legally married wife of the revisionist and opposite party nos. 3 & 4 are minor daughters of the revisionist. The revisionist being husband of opposite party no.2 and father of opposite party nos.3 & 4, is morally bound to discharge his legal obligation of maintaining his wife and minor children in any circumstance.

The Hon'ble Apex Court in the case of **Rajnesh Vs. Neha and Another** reported in **(2021) 2 SCC 324** has laid down certain guideline for awarding just and reasonable maintenance. Relevant paragraph (i) and (ii) of Part III is quoted herein below:-

"(i) The objective of granting interim / permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of

the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependant children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife.

*In **Manish Jain v Akanksha Jain, (2017) 15 SCC 801** this Court held that the financial position of the parents of the applicant-wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the Court should mould the claim for maintenance based on various factors brought before it.*

On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications.

(ii) A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home.

The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort."

Considered the facts and circumstances of the case and keeping in mind the spiral inflation and high cost of living index, this Court is of the view that maintenance @ Rs.20,000/- per month in favour of wife and Rs.15,000/- per month each in favour of two

minor daughters who are studying cannot said to be excessive in any manner looking monthly income of the revisionist-husband.

No ground for interference is made out. The criminal revision is liable to be dismissed.

The criminal revision is **dismissed**, accordingly.

Interim order, if any, stands discharged.

Order Date :- 16.10.2023

Virendra/P.P.