

Court No. - 79

Case :- CRIMINAL REVISION No. - 4178 of 2023

Revisionist :- Dhanendra Kumar Srivastava

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

Counsel for Revisionist :- Saddam Husain, Mohd. Samiuzzaman Khan

Counsel for Opposite Party :- G.A., Mata Pher

Hon'ble Vipin Chandra Dixit, J.

Heard Mr. Mohd. Samiuzzaman Khan, learned counsel for the revisionist, learned A.G.A. for the State, Sri Mata Pher, 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 9.6.2023 passed by learned Principal Judge, Family Court, Kushinagar at Padrauna in Criminal Case No.1033 of 2022 (Smt. Prinu Srivastava Vs. Dhanendra Kumar Srivastava), by which the application filed by opposite party no.2 under Section 127 Cr.P.C. was allowed and the maintenance was enhanced from Rs.3,000/- per month to Rs.6,000/- per month.

It is submitted by learned counsel for the revisionist that the maintenance enhanced by learned Family Court is highly excessive and without considering the income of the revisionist. It is further submitted that the revisionist is a labour and his income was assessed as Rs.12,000/- per month and the learned Family Court has erred in awarding maintenance at the rate of Rs.6,000/- per month to the wife of revisionist. Lastly, it is submitted that learned Family Court has not considered the comparative hardship of revisionist while enhancing the maintenance on higher side.

On the other hand, learned counsel appearing on behalf of opposite party no.2 submits that the revisionist is a practicing Advocate and he was enrolled as an Advocate on 14.12.2019. It is further submitted that the revisionist has not come with clean hands as he has filed objection against the application filed under Section 127 Cr.P.C. stating therein that he is still labour by concealing the fact that he was enrolled as an Advocate in the year 2019. It is further submitted that the maintenance enhanced by learned Family Court at the rate of Rs.6,000/- per month cannot said to be excessive in any manner.

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.

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.6,000/- 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.

However, it is provided that revisionist shall pay the entire arrears as on date in four equal monthly instalments to the opposite party no.2, failing which it is open to opposite party no.2 to initiate recovery proceedings against the revisionist.

Order Date :- 1.11.2023

Kpy