

Court No. - 39

Case :- FIRST APPEAL No. - 1193 of 2023

Appellant :- Munesh @ Manish

Respondent :- Gunjan @ Kalpana

Counsel for Appellant :- Sanjay Srivastava

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Sri Sajay Srivastava, learned counsel for the appellant and perused the record.
2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984 arising from the order dated 16.08.2023 passed by the learned Principal Judge, Family Court, Gautam Budh Nagar referable to Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'Act'). By that order, the learned court below has passed an *ex parte* order, providing for interim maintenance @ Rs. 4,000/- per month to the respondent from the date of that order.
3. Having heard learned counsel for the appellant and having perused the record, we find, the impugned order is preceded by an earlier order dated 25.01.2023 passed by the Principal Judge, Family Court, Bulandshahr providing for maintenance under Section 125 Cr.P.C. to the respondent @ Rs. 10,000/- per month and Rs. 5,000/- per month to the minor daughter of the parties.
4. That earlier order dated 25.01.2023 having provided for higher maintenance, the appellant further claims, he is complying with the same and paying the due amount to the respondent.
5. Reference has also been made to certain other order under Protection of Women from Domestic Violence Act.
6. Be that at it may, if it is the case of the appellant that he is

complying with the order providing for higher maintenance being order dated 25.01.2023 passed under Section 125 Cr.P.C. in Criminal Misc. Case No. 701 of 2021 (Smt. Gunjan @ Kalpana & Anr. Vs. Munesh @ Munish) by the Principal Judge, Family Court, Bulandshahr, it is left open to the appellant to establish that fact before the learned court below in the execution proceeding.

7. Needless to add, if the higher amount is being paid from before and regularly, the lower amount awarded would stand subsumed in the higher amount such that no recoveries be made from the appellant under the order impugned in the appeal.

8. With the aforesaid observation, present appeal is **disposed of**.

Order Date :- 1.11.2023
Abhilash

(Shiv Shanker Prasad, J.) (S. D. Singh, J.)