

Court No. - 79

Case :- CRIMINAL REVISION No. - 5524 of 2023

Revisionist :- Amit Pandey

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

Counsel for Revisionist :- Santosh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit,J.

Heard Sri Santosh Kumar Mishra, learned counsel for the revisionist, learned AGA for the State and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 21.08.2023 passed by the learned Additional Principal Judge, Family Court, Court No.3, Kanpur Nagar in Misc. Case No.248 of 2019 arising out of Original Suit No.715 of 2018.

Brief facts of the case is that opposite party no.2 had filed an application under Section 125 CrPC against the revisionist which was allowed ex parte vide judgment and order dated 04.06.2019 passed by the Additional Principal Judge, Family Court, Court No.4, Kanpur Nagar in Case No. 715 of 2018 directing the revisionist to pay Rs.10,000/- per month maintenance to the wife. The learned Family Court has recorded the finding that the revisionist is working on the post of Assistant Teacher and is getting salary of Rs.40,000/- per month.

The revisionist moved an application under Section 126(2) CrPC for recalling of ex parte order dated 04.06.2019 which was allowed by the learned Family Court vide order dated 21.08.2023. The ex parte order dated 04.06.2019 has been set aside and the application under Section 125 CrPC was restored to its Original number subject to the condition that revisionist shall pay Rs.5,000/- per month from the date of ex parte judgment and order dated 04.06.2019. It is submitted by learned counsel for the revisionist that the maintenance awarded is highly excessive and ex parte judgment has been passed by the learned Family Court without giving any opportunity of hearing to the revisionist.

Admittedly, opposite party no.2 is legally wedded wife of the revisionist. The revisionist is working as an Assistant Teacher and

is getting handsome salary of Rs.40,000/- per month. The revisionist being husband of opposite party no.2 is morally bound to maintain his wife at any condition. No ground for interference is made out and this criminal revision is liable to be dismissed.

Accordingly, this criminal revision is dismissed.

However, it is provided that the entire arrears as on date shall be paid by the revisionist in six equal monthly installments, failing which, it is open for opposite party no.2 to execute the order of maintenance.

Order Date :- 3.11.2023

Priya