

Court No. - 79

Case :- CRIMINAL REVISION No. - 5107 of 2022

Revisionist :- Sachhidanand Jaiswal

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

Counsel for Revisionist :- Mukesh Dhar Dwivedi

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

Hon'ble Vipin Chandra Dixit,J.

1. Heard Shri Mukesh Dhar Dwivedi, learned counsel for the revisionist, learned A.G.A. for the State and Smt. Amrita Singh, learned counsel appearing on behalf of opposite party no. 2 and perused the record.

2. This criminal revision has been filed by the revisionist against the judgment and order dated 15.10.2022 passed by Principal Judge, Family Court, Ballia in Maintenance Case No. 68 of 2018 (Reena Jaiswal Vs. Sachhidanand Jaiswal) by which the application filed by opposite party no. 2 under Section 125 Cr.P.C. was allowed and revisionist was directed to pay Rs. 5,000/- per month to the opposite party no. 2 as maintenance from the date of application i.e. on 20.02.2018.

3. It is submitted by learned counsel for the revisionist that maintenance awarded by learned Family Court in favour of opposite party nos.2, who is wife of revisionist, is highly excessive without considering the monthly income of the revisionist. It is further submitted that the court below without recording any finding in respect of comparative hardship of the revisionist, had awarded Rs.5,000/- per month in favour of wife.

4. On the other hand, learned counsel appearing for opposite party no.2 has submitted that the maintenance of Rs. 5,000/- awarded by the Family Court cannot be said to be excessive rather it is a

meager amount and the criminal revision preferred by husband is liable to be dismissed.

5. 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. In the present case as the revisionist has not frankly disclosed his income, an adverse inference can be drawn against him.

6. 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 arises, the presumption would be against the husband and the obligation of the husband is on a higher pedestal.

7. 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.5,000/- per month in favour of the wife cannot be treated to be on higher side rather it is too meager.

8. 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.

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

Order Date :- 26.10.2023

A. Prajapati