

Court No. - 79

Case :- CRIMINAL REVISION No. - 5379 of 2022

Revisionist :- Ramu Prasad

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

Counsel for Revisionist :- Jainendra Kumar Pandey

Counsel for Opposite Party :- G.A.,Kushal Raj Chaudhary,Pradeep Saxena

Hon'ble Vipin Chandra Dixit,J.

Heard Sri J.K. Pandey, learned counsel for the revisionist, learned AGA for the State and Sri Pradeep Saxena, learned counsel appearing for opposite party No.2. Perused the record.

This criminal revision has been filed against the order dated 21.9.2022 passed by learned Principal Judge, Family Court, Kanpur Nagar in Criminal Case No. 177 of 2009 (Sangeeta vs. Dr. Ramu Prasad), by which application filed by opposite party no.2 under Section 125 Cr.P.C. was partly allowed and the revisionist was directed to pay maintenance of Rs.3000/- per month to wife-opposite party no.2 from the date of application.

Learned counsel for the revisionist submits that learned Family Court has awarded very excessive amount of maintenance, without recording any finding with regard to income of the revisionist as also without considering comparative hardship of the revisionist.

On the other hand, it is submitted by learned counsel appearing for opposite party no. 2 that maintenance of Rs.3000/- per month in favour of wife cannot said to be excessive, rather it is on lower side.

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 circumstance. 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. Now it is the settled position of law that when the husband does not disclose before 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.

Keeping in mind the spiraling inflation rate and high cost of living index, this Court is of the view that maintenance amount of Rs.3000/- per month awarded by the Family Court in favour of opposite party no.2, cannot be said to be excessive.

In view of above, there is no illegality, infirmity or perversity in the impugned order which may warrant any interference by this Court. The criminal revision filed by husband is liable to be dismissed.

The criminal revision is dismissed, accordingly.

However, it is provided that entire arrears as on date, shall be paid by the revisionist in nine equal monthly installments to opposite party no.2, failing which it is open for opposite party no.2 to get the award passed by the learned Family Court executed.

Order Date :- 5.12.2023

P.P.