

Court No. - 79

Case :- CRIMINAL REVISION No. - 5422 of 2022

Revisionist :- Jamuna Prasad

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

Counsel for Revisionist :- Sabhajeet Yadav, Khurshida Bano

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit, J.

Heard Sri Sabhajeet Yadav, learned counsel for the revisionist, learned A.G.A. for the State and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 2.11.2022 passed by learned Additional Principal Judge, Family Court, Pilibhit in Case No.477 of 2017 (Mohan Devi @ Nanhi Devi Vs. Jamuna Prasad), by which the application filed by opposite party no.2, under Section 125 Cr.P.C. was allowed and the revisionist was directed to pay Rs.5,000/- per month to wife/opposite party no.2 from the date of application i.e. 8.12.2017.

It is submitted by learned counsel for the revisionist that the revisionist is labour having no fixed income and the maintenance awarded by learned Family Court is highly excessive and without any basis. It is further submitted that learned Family Court while awarding the maintenance has not considered the comparative hardship of the revisionist.

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.

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.

Considering the facts and circumstances of the case and keeping in mind the spiralling 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 the higher side rather it is too meagre.

In view of the 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 the 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 execute the judgment and order dated 2.11.2022 passed by Family Court.

Order Date :- 8.11.2023

Kpy