

Court No. - 79

Case :- CRIMINAL REVISION No. - 5485 of 2022

Revisionist :- Nagendra Singh Sikarwar

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

Counsel for Revisionist :- Ram Chandra Uttam

Counsel for Opposite Party :- G.A., Shikhar Awasthi

Hon'ble Vipin Chandra Dixit, J.

Heard Sri Ram Chandra Uttam, learned counsel for the revisionist, learned A.G.A. for the State, Sri Shikhar Awasthi, learned counsel appearing on behalf of opposite party no.2 and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 30.9.2022 passed by Judicial Officer, Gram Nyayalaya Patiyali, Kasganj in Misc. Case No.115 of 2021 (Smt Indra Sikarwar @ Pinki and another Vs. Nagendra Singh Sikarwar), 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.2,000/- per month to opposite party no.2 from the date of application i.e. 30.7.2013 till the date of judgment and thereafter Rs.4,000/- per month.

Learned counsel for the revisionist submits that the maintenance awarded by the court below is highly excessive and without any basis. It is further submitted that learned court below without recording any finding in respect of comparative hardship of the revisionist, has awarded maintenance which is on higher side.

Learned counsel appearing on behalf of opposite party no.2 submits that maintenance awarded by court below 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 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 and children 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.4,000/- per month in favour of the wife cannot be treated to be on higher side rather it is too meagre.

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.

The criminal revision is dismissed, accordingly.

However, it is provided that revisionist shall pay the entire arrears as on date in six equal monthly instalments to the opposite party no.2, failing which it is open to opposite party no.2 to initiate recovery proceedings against the revisionist.

Order Date :- 23.11.2023

Kpy