

Court No. - 29

Case :- CRIMINAL REVISION DEFECTIVE No. - 187 of 2023

Revisionist :- Rajesh Kumar Singh

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Civil Sectt. Lko.
And 2 Others

Counsel for Revisionist :- Prem Prakash Singh, Bipul Kumar Singh

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

Hon'ble Mrs. Renu Agarwal, J.

1. Learned counsel for the revisionist, learned counsel for the private respondents as well as learned AGA for the State are present.

2. Instant Criminal Revision under Section 19(4) of the Family Court Act, 1984 has been preferred against the order dated 02.03.2020 passed by Principal Judge, Family Court, Ambedkarnagar in maintenance case No. 411 of 2019, Rekha Singh and Anr. Vs. Rajesh Kumar Singh, by means of which an application under Section 125 Cr.P.C. for maintenance filed by the opposite parties was allowed.

3. It is submitted that the order passed by the court below is perverse and the same has been passed ex-parte without proper application of mind. It is further submitted that by means of order dated 27.02.2020, opportunity of adducing evidence by the revisionist was closed without giving him proper opportunity. It is next submitted that revisionist preferred an application under Section 126(2) Cr.P.C. for recall of the order which was rejected by the court below on perverse findings, hence, the operation of the impugned judgment and order dated 02.03.2020 passed by the court below should be stayed.

4. Per contra, learned counsel for the informant has submitted that the revisionist was given sufficient opportunity to adduce evidence during the trial, however, no evidence has been filed by the revisionist, therefore, the order passed on merits with proper application of mind. It is further contended that the revisionist has moved an application under Section 126(2) Cr.P.C. for setting aside the impugned order which was rejected by the court concerned vide order

dated 28.02.2023 on the ground that order passed under Section 125 Cr.P.C. is not an ex-parte order, therefore, application under Section 126(2) Cr.P.C. is not maintainable, hence opposed the revision.

5. I have heard the rival submissions advanced on behalf of the parties.

6. From the perusal of the judgment itself, it transpires that the opposite parties have appeared during the trial and opportunities were given to her for adducing evidence, however, revisionist neither appeared before the trial court nor adduced his defence, therefore, the proper opportunity was given to the revisionist and the order passed by the trial court was passed on merits. The application moved by the revisionist under Section 126 (2) Cr.P.C. is not challenged by the revisionist which was disposed of by the court concerned, hence without challenging the order dated 28.02.2023 the present revision is not maintainable, hence revision is liable to be dismissed.

7. In view of the above, instant Revision is **dismissed** leaving it open for the revisionist to file a fresh revision, if he so desires.

(Renu Agarwal,J.)

Order Date :- 17.11.2023

Karan