

Court No. - 15

Case :- CRIMINAL REVISION DEFECTIVE No. - 362 of 2023

Revisionist :- Najim Kha @ Najeem

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And Another

Counsel for Revisionist :- Alok Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

(C.M.Application No. 1 of 2023)

This is an application for condonation of delay in filing the Revision.

The Stamp Reporter has reported that this appeal is beyond time by 192 days.

Heard learned counsel for the revisionist and learned A.G.A. for the State and perused the affidavit filed in support of delay condonation application, cause shown in the affidavit is found satisfactory.

On due consideration, application for condonation of delay is allowed.

Office is directed to allot regular number to this revision.

(Order on memo of Revision)

Heard learned counsel for the revisionist and learned A.G.A.-I for the State.

This revision has been filed by the revisionist against the judgment and order dated 11.01.2023 passed by the court of learned First Additional Principal Judge, Family Court, Hardoi, in Case No. 280/2019: Smt Sabana Vs. Najim @ Najeem) by which the learned Additional Principal Judge, Family Court, Hardoi has been ex-parte allowed the application under Section 125 Cr.P.C. and directed the revisionist to pay Rs. 3000/- per month to the respondent No.2 as an interim measure from the date of application.

Submission of learned counsel for the revisionist is that Rs. 3000/- per month from the date of application has been fixed as interim maintenance to the wife though the evidence in the case is yet to be adduced. Further submission is that such high amount of maintenance can be justified only after looking into the merits of the case. The provisions of interim maintenance is basically meant to avoid the prospect of destitution and vagrancy of ignored wife or children and the amount in that regard should not be fixed as if final amount of maintenance is being given. Learned counsel for the revisionist has tried to elaborate upon the economic circumstances of the revisionist and his other obligations and liabilities and has tried to show that fixation of such high amount is causing great hardship to the revisionist. Counsel has also sought to place his criticism against the impugned order on various other grounds touching upon the factual as well as legal aspects of the matter.

Per contra learned A.G.A. stated that the Court below passed the impugned order after considering the facts and circumstances of the case and the statements of the revisionist and opposite party no.2, in such circumstances to meet the ends of justice, the impugned order does not require any interference. There is no illegality, impropriety and incorrectness in the impugned order and also there seems to be no abuse of court's process.

I have heard learned counsel for the parties and perused the record.

Counsel for the revisionist has not been able to point out any such illegality or impropriety or incorrectness in the impugned order which may persuade this Court to interfere in the same. The amount fixed for maintenance was Rs.3000/- for the opposite party no. 2 which in the present days of high price rise

cannot be said to be either excessive or disproportionate. The provisions of Section 125 of Cr.P.C are beneficial provisions which are enacted to stop the vagrancy of a destitute wife and provide some succour to them, who are entitled to get the maintenance which has been wrongly denied. The fact that the revisionist is the husband of opposite party no.2, has not been denied.

For the reasons stated above and with the consent of the parties, the instant revision is finally **disposed of** on the following terms and conditions.

The revisionist shall continue to pay maintenance amount of Rs. 3000/- per month from the date of application and pay the amount of arrears calculating the amount at the rate of Rs.3000/- per month from the date of application i.e. January, 2019 till October, 2023 which comes to approximately Rs. 1,74,000/- (Rs. One Lac Seventy Four Thousand), as per the calculation made by learned counsel for the revisionist, be paid in six installments. The first installment of Rs. 30,000/- (Rs. Thirty Thousand) be paid on or before 05.12.2023, the second installment of Rs. 30,000/- shall be paid on or before 05.01.2024, as the third installment of Rs. 30,000/- on or before 05.02.2024, as fourth installment of Rs. 30,000/- on or before 05.03.2024, as fifth installment of Rs. 30,000/- on or before 05.04.2024 and as the six and last installment of Rs. 24,000/- on or before 05.05.2024.

All the payments shall be made by way of Bank Draft in favour of revisionist's wife Smt Sabana and onwards from the month of November, 2023 the revisionist shall pay Rs. 3000/- per month to the wife as interim maintenance without fail on or before the 10th day of every month.

It is made clear that this Court has not adjudicated anything on the merits of the case.

It is clarified that in case the revisionist fails to comply with the aforesaid condition, as mentioned above, interim relief regarding installment granted by this Court shall automatically cancelled and the court below is at liberty to proceed regarding recovery of the entire amount due in accordance with law.

Order Date :- 13.10.2023

Arvind