

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 798 of 2023

Amit Mohan

.....Revisionist

Versus

State of Uttarakhand and another

.....Respondents

Present:-

Mr. Akshay Pradhan, Advocate for the revisionist.

Mr. Siddhartha Bisht, AGA with Mr. Himanshu Sain, Brief Holder for the State.

None is present for the respondent no. 2.

Hon'ble Ravindra Maithani, J. (Oral)

Present revision is preferred against the order dated 13.06.2023, passed in Case No. 56 of 2021, Shalu v. Amit Mohan, by the court of Additional Family Judge, Roorkee, District Haridwar ("the case"), by which the revisionist has been directed to pay interim maintenance at the rate of Rs. 4,000/- per month to the respondent no. 2.

2. The revision is delayed by 37 days. A delay condonation application has been filed.

3. Private respondent is already represented in the case, but no objections have been filed to the delay condonation application. Today, none is present for the respondent no. 2.

4. Having considered the grounds for condonation of delay, this Court is of the view that the delay in preferring the revision may be condoned.

5. The delay condonation application (IA No. 2 of 2023) is allowed. The delay in preferring the revision is condoned.

6. Heard on admission.

7. The record reveals that the respondent no. 2 has filed an application under Section 125 of the Code of Criminal Procedure, 1973 ("the Code") seeking maintenance from the revisionist. According to the respondent no. 2, she and the revisionist were married on 27.06.2020, but, after marriage, the respondent no. 2 came to know that based on false assertions, the marriage was solemnized; it was told to her that the revisionist is a Government servant in Indian Navy, whereas he was not working there as such; the revisionist was a drug addict; there were various grounds as well written in the application under Section 125 of the Code. She has also stated that she is not able to maintain herself, whereas the revisionist is a man of means, who runs a shop of mobile and also runs a dairy, and earns Rs. 80,000/- per month. In the case, an application for interim maintenance was also filed.

8. The application for interim maintenance was objected to by the revisionist, *inter alia*, on the grounds that the revisionist and the private respondent were known to each other; after marriage, it is the respondent no. 2, who would taunt the revisionist that had she been married at some other place, she would have a better life. Many other grounds had also been taken by the revisionist in the objection to the interim maintenance application. He also writes that the respondent no. 2 is a qualified woman and gets Rs. 15,000/- salary per month.

9. After hearing the parties, by the impugned order, the revisionist has been directed to pay Rs. 4,000/- per month to the private respondent. It is impugned in this revision.

10. Learned counsel for the revisionist would submit that in para 7 of the application under Section 125 of the Code, the private respondent has levelled serious allegation with regard to potency of the revisionist, which is false and amounts to cruelty. He has referred to some medical prescription indicating that, in fact, the private respondent had taken contraceptive pills, which, it is argued, shows that the revisionist was capable to discharge his functions as a husband. It is also argued that the private respondent is more qualified than the revisionist and is capable to earn.

11. So far as the question of cruelty on the ground of averments made in para 7 of the application under Section 125 of the Code filed by the private respondent is concerned, this Court is of the view that, at this stage, no finding as such can be recorded on this aspect without the parties having been allowed to adduce evidence. The findings of the court below are tentative finding. The court below in the impugned order has recorded that the private respondent is not earning anything.

12. Learned counsel for the revisionist has also argued that the private respondent gets Rs. 15,000/- per month as salary, but there is no record to it. The revisionist has admitted

his income as Rs. 12,215/- per month. Rs. 4,000/- per month is awarded as interim maintenance.

13. Having considered, this Court does not find any illegality, impropriety or error in the impugned order. Accordingly, the criminal revision deserves to be dismissed at the stage of admission itself.

14. The criminal revision is dismissed *in limine*.

(Ravindra Maithani, J)
17.12.2024

Avneet/