

Court No. - 14

Case :- CRIMINAL REVISION No. - 1526 of 2024

Revisionist :- Ramsha Saleem

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

Counsel for Revisionist :- Mohammad Adil Khan, Mohammad Aslam Khan

Counsel for Opposite Party :- G.A.

Hon'ble Ajai Kumar Srivastava-I,J.

1. Vakalatnama filed today by Sri Sunil Kumar Mishra, Advocate on behalf of opposite party no.2 is taken on record.

2. Heard Sri M.A. Khan, learned counsel assisted by Sri Mohammad Aslam Khan, learned counsel for the revisionist, learned A.G.A. for the State and Sri S.K. Mishra, learned counsel for opposite party no.2.

3. By means of the instant criminal revision, a challenge has been made to the order dated 07.11.2024, passed by the Additional Principal Judge, Family Court VI, Lucknow, whereby Application 85(C) filed by the present revisionist has come to be disposed of.

4. The prayers, which were sought by the revisionist by means of Application 85(C) are reproduced in Devnagri as under :-

"यह कि उपरोक्त तथ्यों के दृष्टिगत न्यायालय श्रीमान् से प्रार्थिनी का अनुरोध है कि विपक्षी को निम्नलिखित दस्तावेज शीघ्रातिशीघ्र प्रस्तुत करने हेतु निर्देश/आदेश पारित करें:-

(a) विपक्षी की वर्तमान/अद्यतन वेतन पर्ची।

(b) विपक्षी के *FDR, Dividends, Shares, Interest* से सम्बन्धित आवश्यक प्रपत्र ।

(c) विपक्षी का विगत 3 वर्ष का बैंक स्टेटमेंट।

(d)। विपक्षी का विगत 3 वर्ष का फार्म-16 सम्बन्धित आवश्यक प्रपत्र ।

(e) विपक्षी द्वारा दिये गये लोन की किश्ते किस-किस एसिट्स (सम्पत्ति) में इन्वेस्टमेंट किया है उन सभी सम्पत्तियों का विवरण तथा अपनी माता को किस अकाउण्ट में भुगतान किया है उनका अकाउण्ट विवरण कैद इनकम टैक्स रिटर्न उपलब्ध कराये।”

5. It appears that the learned trial Court by means of the impugned order dated 07.11.2024, has proceeded to dispose of the said Application 85(C) in view of the fact that there is a direction of this Court for expeditious disposal of Criminal Case No.164 of 2021, filed under Section 125 Cr.P.C. by the present revisionist; the parties have already been granted opportunity to settle their dispute amicably as also that the revisionist is getting interim maintenance of Rs.50,000 per month. It is noteworthy that the learned trial Court has also mentioned in the impugned order that the Criminal Case No.164 of 2021, under Section 125 Cr.P.C. is fixed for cross-examination of DW-1.

6. It is submitted by the learned counsel for the revisionist that the cross-examination of DW-1/opposite party no. 2 is yet to be conducted on behalf of the revisionist. In want of aforesaid informations, which were sought by means of application 85(C), it would not be possible to conduct effective cross-examine of opposite party no.2 on behalf of the revisionist. His further submission is that the learned trial Court has neither allowed nor rejected the Application 85(C), perhaps because the learned trial Court was swayed by the fact that the revisionist is getting an interim maintained at the rate of Rs.50,000/- per month and is somehow by means of Application 85(C) wants to delay the proceeding of Criminal Case No.164 of 2021.

7. Drawing attention of this Court to the impugned order dated 07.11.2024, learned counsel for the revisionist has submitted that it was incumbent upon the learned trial court to decide Application 85(C) either way after considering the entire facts and circumstances of the same.

However, by means of the impugned order, the learned trial court, without advertent to the relevant facts, chose to fix date for cross-examination of DW-1 and disposed of Application 85(C) accordingly, which is patently illegal as the same would amount to denial of right of effective cross-examination of opposite party no.2 by the revisionist. He, thus, submits that the impugned order deserves to be quashed.

8. Per contra, learned A.G.A. as also learned counsel for opposite party no.2 have vehemently opposed the aforesaid prayer by submitting that the matter is listed for the cross-examination of opposite party no.2. Their further submission is that a substantial amount of Rs.80,000 per month is being given to the revisionist as interim maintenance, therefore, the Application 85(C) has been malafidely moved with a view to delay the proceeding of Criminal Case No.164 of 2021, under Section 125 Cr.P.C.

9. Having heard learned counsel for the parties and upon perusal of the records, it transpires that though in view of what has been held by Hon'ble Supreme Court in **Rajathi v. C. Ganesan, (1999) 6 SCC 326**, it is for the husband to show that he has no sufficient means to discharge his obligation under Section 125 Cr.P.C. However, having regard to the fact that while fixing quantum of maintenance, the standard of living of the parties shall have to be taken into consideration. It is not the question of minimum amount in which one can just exist.

10. In aforesaid view of the matter, though it is always a discretionary power vested in the learned trial Court to direct any party to produce documents/evidence for just decision of the case, however, coming to any such conclusion without advertent to the entire facts and circumstances of the case in such a manner appears to be untenable for the simple reason that the reasons for any order is the soul of such order, thus, any order, which is passed without assigning any reason therefor, cannot be said to be sustainable as observed above.

11. In view of what has been discussed above, the impugned order dated

07.11.2024 deserves to be set aside and the same is hereby set aside with a direction to the court concerned to dispose of Application 85(C) and the objections moved thereon afresh by by means of reasoned and speaking order with utmost expedition, without granting any unnecessary adjournments to the parties, including the present revisionist/applicant of Application 85(C).

12. Accordingly, the instant revision is finally **disposed of**.

(Ajai Kumar Srivastava-I, J.)

Order Date :- 18.12.2024
A.Dewal