

Court No. - 84

Case :- CRIMINAL REVISION No. - 562 of 2025

Revisionist :- Mohd. Naveen

Opposite Party :- State Of U.P. And 3 Others

Counsel for Revisionist :- Gayyoor Ali, Noor Ahmed

Counsel for Opposite Party :- G.A., Irfan Chaudhary, Srijan Pandey

Hon'ble Subhash Chandra Sharma, J.

Heard learned counsel for the revisionist as well as learned counsel for the opposite party alongwith learned A.G.A. for the State and perused the record.

This criminal revision has been filed with prayer to allow this revision and set aside the impugned judgment and order dated 11.12.2024 passed by Additional Principal Judge (Family Court) Shamli, in Case No.181/2022 under Section 125 Cr.P.C., Police Station Kairana, District Shamli and also prays to stay the effect and operation of the order dated 11.12.2024.

It is submitted by learned counsel for the revisionist that in this case opposite party no.2 was his wife and opposite party nos.3 & 4 were minor children. Further submits that there was divorce between the revisionist and opposite party no.2 and she started living separate from him with minor children. After divorce the revisionist entered into second marriage and have two sons namely Hasan and Hareem from the second wife. The opposite party no.2 is living separate from the revisionist from the year 2014 but filed present application u/s 125 Cr.P.C. in the year 2022 after delay and in the meantime, she maintained herself and two minor children with the income she made by operating the business of online sale of clothes. He also submits that a case u/s 498A I.P.C. was got registered by the wife against the revisionist in which he knocked the door of the Hon'ble Supreme Court for stay of arrest and the Hon'ble Supreme Court by order dated 23.03.2015 in Criminal Appeal No.2034/2015 directed the revisionist to deposit a sum of Rs.5 lakhs towards the maintenance for the divorced wife and stayed the arrest and in compliance thereof he paid the amount of Rs.5 lakhs to the opposite party no.2. Now he has no liability to pay any amount of maintenance as being directed by the Hon'ble Supreme Court for paying lump sum amount Rs.5 lakhs as

maintenance. In this regard, he has filed application before the learned trial court but it was not considered. It is also submitted that the revisionist is suffering from mental disease i.e. in the form of cyst and he is unable to make any earning and he is being maintained by his second wife herself. Even though the learned trial court has directed him to pay the amount of Rs.5000/- per month in favour of wife and Rs.4000/- per month in favour of each minor child, total amounting to Rs.13,000/- per month which is in excess. In this way, the order passed by learned trial court dated 11.12.2024 being illegal and inappropriate is liable to be dismissed.

Learned counsel for the opposite party as well as learned A.G.A. opposed the prayer as aforesaid and contended that in this case the opposite party nos.2, 3 & 4 are wedded wife and minor children of the revisionist. He neglected to maintain the wife and minor children that was the reason she alongwith her minor children started living apart from the revisionist in her maika. He prepared a fabricated talaknama and entered into second marriage and there are two children from the second wife and he is maintaining them. He also contended that there was no any valid talaknama between the revisionist and opposite party no.2. On the basis of fabricated talaknama prepared by the revisionist himself he has filed a suit for declaration in the court at Delhi which is still pending. He also contended that the opposite party no.2 was living in her maika with the support of her inmates but when the support became unavailable she filed the present application for maintenance for herself and two minor children. He also contends that the minor children are in the school going age and there are expenses on their education also. Learned trial court considered all these facts and fixed the amount of Rs.5000/- per month in favour of wife and Rs.4000/- per month to each child, total Rs.13,000/- per month that cannot be said to be excessive and more than sufficient. The amount which was directed to be paid by the Hon'ble Supreme Court was for the maintenance of wife and two minor children and it was for staying the arrest in criminal case. The revisionist has not disclosed any source of his income only to avoid the liability of making payment of maintenance to the opposite parties though he is maintaining his second wife and two children. In this way, the legally wedded wife and two children from the first wife cannot be left in destitute. The learned trial court has passed the order in question after considering all these facts, therefore, there is no any illegality and impropriety in the order passed by the learned trial court but this revision being devoid of merit is liable to be dismissed.

Considering the facts and circumstances of the case, submissions made by learned counsel for both the parties, perusal of record and also the order passed by the learned trial court, it appears that the opposite party nos.2, 3 & 4 are married wife and minor children of the revisionist. Without any decree of divorce from the competent court between the parties, the revisionist entered into second marriage and have two children from the second wife. From the year 2014 the opposite party no.2/wife is living apart in her maika from the husband/revisionist due to his neglect. For offences of cruelty and harassment on the part of the revisionist a case u/s 498A, 323, 377, 307, 506 I.P.C. and Section 3/4 D.P. Act was also got registered against the revisionist by the opposite party no.2. It also shows that there was harassment and neglect on the part of the revisionist against his wife. Against the arrest in the aforesaid case, the revisionist knocked the door of the Hon'ble Supreme Court in which his arrest was stayed with the direction to make payment of Rs.5 lakhs as maintenance to the wife which was paid by him but the Hon'ble Supreme Court has not directed that the opposite party no.2 will not be entitled for the maintenance from the husband after receiving the amount of Rs.5 lakhs and it has settled the amount of maintenance finally. There is nothing on record to show that opposite party no.2 is able to maintain herself by earning income. There are two children with her who are studying and for their educational expenses there is need of money. The illness shown by the revisionist is not of such nature that he is disable in making earning. In the circumstances as aforesaid, the amount of maintenance as fixed by the learned trial court Rs.5000/- per month in faovur of wife and Rs.4000/- for each minor child those are continuing their studies cannot be said to be excessive or more than sufficient but the amount of Rs.5 lakh said to be given to the wife in pursuance to the direction given by the Hon'ble Supreme Court shall be subject to adjustment in the arrears of amount of maintenance.

In considered opinion of this Court, there appears no any illegality or impropriety in the order passed by the learned trial court dated 11.12.2024 but this criminal revision being devoid of merit is liable to be dismissed.

Accordingly, this criminal revision is, hereby, ***dismissed.***

Order Date :- 7.7.2025

Ashok Gupta