



2025:AHC:144470

Neutral Citation No. - 2025:AHC:144470

Court No. - 91

Case :- CRIMINAL REVISION No. - 891 of 2024

Revisionist :- Mohd Afzal

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Mohd Tazim, Shahzad Alam

Counsel for Opposite Party :- Adil Khan, G.A., Umesh Prasad Singh

Hon'ble Madan Pal Singh, J.

1. Heard Shri Shahzad Alam, learned counsel for the revisionist, Shri Adil Khan, learned counsel for the opposite party no.2 as well as learned AGA for the State-opposite party no.1 and perused the record.

2. The instant criminal revision has been preferred against the judgement and order dated 01.02.2024 passed by Additional Principal Judge, Family Court No.2, Azamgarh, in Case No. 05 of 2020 (Huma Parveen Vs. Mohd Afzal), under Section 125 Cr.P.C., whereby the revisionist is directed to pay Rs.5,000/- per month as maintenance to opposite party No.2, who is his wife. The maintenance is payable from the date of filing of the application.

3. Learned counsel for the revisionist submits that the judgment and order passed by the trial court is wrong, illegal and deserves to be set aside by this Hon'ble Court. He further submits that the revisionist is doing the work of labouring and remained in UAE and getting salary of 700 dirham which comes to Rs.15,400/- in Indian Currency, the revisionist has also the liability of his parents and other family members but the trial court without considering all these aspects of the matter vide order impugned directed the revisionist to pay Rs.5,000/- per month as maintenance to the opposite party no.2, which is excessive. It is also submitted by the learned counsel for the revisionist that the opposite party no.2 is having the degree of B.T.C., she is also taking tuition and earns money, therefore, she is not entitled for any maintenance from the revisionist.

4. Learned counsel for the revisionist has further relied upon the judgment and order dated 19.03.2025 passed by the High Court of Delhi in **Crl. Rev. P. 273/2023 & 6767/2023 (Megha Khetrapal Vs. Rajat Kapoor)** whereby the Hon'ble Delhi High Court upheld the judgment and order passed by the Principal Judge, Family Courts

South District, Saket Courts, New Delhi. Learned counsel for the revisionist specifically relied on paragraph no.49 of the judgment.

5. Learned counsel for the opposite party no.2 submits that the marriage of the opposite party no.2 was solemnized with the revisionist on 27.11.2018 as per Muslim Rites and Rituals. The parents of the opposite party no.2 had spent sufficient money at the time of marriage. After sometimes of the marriage, the revisionist and his other family members have started demanding more dowry and on account of non-fulfillment of the said dowry demand, she was being mentally, physically and financially tortured by them. Lastly, on 18.12.2019, the revisionist, his parents and other family members, have badly beaten the opposite party no.2 and ousted her from the matrimonial house.

6. Learned counsel for the opposite party no.2 further submits that the trial court has rightly awarded the maintenance of Rs.5,000/- per month to the opposite party no.2. The revisionist is working in UAE and earns Rs.700 dirham and since 18.12.2019 and till date he has not paid a single penny to the opposite party no.2 towards her maintenance, therefore, the judgment and order passed by the trial court does not warrant any interference by this Hon'ble Court.

7. Heard learned counsel for the parties and perused the record.

8. From the perusal of the record, it appears that the marriage of the revisionist was solemnized with the opposite party no.2 on 27.11.2018 according to the Muslim Rites and Rituals. The marriage of the revisionist with the opposite party no.2 is not disputed by either of the parties and being husband the revisionist is responsible to maintain her wife-opposite party no.2.

9. So far as the argument of the learned counsel for the revisionist that the maintenance awarded by the trial court is excessive is concerned, the opposite party no.2 is the legally wedded wife of the revisionist, hence he is duty bound to maintain the opposite party no.2. The Hon'ble Apex Court in catena of judgments observed that the maintenance amount can be fixed to the extent of 25% of the net salary/income of the husband.

10. The revisionist in his objection filed before the trial court has admitted that he is working as labour in abroad and earns 700 dirham per month and this fact also finds support from the impugned

judgment and order of the trial court at page-11, wherein it has been mentioned that the revisionist earns Rs.700/- dirham per month and one dirham is equal to Rs.22/- of the Indian Currency, meaning thereby the revisionist is earning Rs.15400/- per month. In that context the judgment and order of the trial court requires modification.

11. The Hon'ble Supreme Court in the case of **Rajnesh Versus Neha and Another (2021) 2 Supreme Court Cases 324; Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy AIR 2017 Supreme Court 2383 and Kulbhushan Kumar Vs. Raj Kumari (1970) 3 SCC 129** observed that the maintenance amount can be fixed to the extent of 25% of the net salary/income of the husband.

12. From the record, it appears that the revisionist is earning Rs.700/- dirham per month and in Indian Currency it comes to Rs.15,400/- per month and as per the observations of the Apex Court in the above mentioned cases, 25% of his net income comes to Rs.3850/-, therefore, the judgment and order passed by the trial court deserves to be modified.

13. Accordingly, the amount of maintenance Rs.5,000/- is in excess and not in proportionate to the income of the revisionist-husband and the observation made by the Hon'ble Supreme Court in aforesaid cases, therefore, it is liable to be reduced. The amount of maintenance Rs.5,000/- is reduced to the extent of Rs.4,000/- which is near to Rs.3850/- from the date of application and the other conditions fixed by the trial court will remain intact. The reduced amount will be payable in terms of order passed by learned trial court dated 01.02.2024.

14. So far as the applicability of the judgment and order passed by the High Court of Delhi is concerned, in the said case the victim was having a master's degree from Australia, she was earning well in a job in Dubai before her marriage, therefore, it was presumed in that case that the victim is able to maintain herself, hence her case was rejected by the Principal Judge, Family Court for grant of maintenance but the present case stands on different footing that the opposite party no.2 was never in any kind of employment, and further the revisionist has failed to produce any document with regard to employment of the opposite party no. 2, therefore, the case law furnished by the learned counsel for the revisionist does not help him in any manner.

15. So far as the arrears of maintenance is concerned, the revisionist is directed to pay the arrears of the maintenance amount in 12 installments. The first installment will fall on October 15, 2025 and the remaining eleven installments shall be paid on fifteenth of each calendar month.

16. Accordingly, the present revision is ***partly allowed*** and the amount of maintenance is modified as aforesaid.

Order Date :- 22.8.2025
Prajapati RK

(Madan Pal Singh, J.)