



2025:AHC:166779

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4765 of 2024

Satya Prakash Singh Alias Sonu

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Vinay Kumar Singh
Counsel for Opposite Party(s)	:	G.A., Harish Kumar Tripathi

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Heard Shri Vinay Kumar Singh, learned counsel for the revisionist, and learned AGA appearing for the State-opposite party no.1 as well as Sri Harish Kumar Tripathi, learned counsel for opposite party no.2.

2. The instant criminal revision has been filed for quashing of the judgment and order dated 04.07.2024 passed by the court of learned Additional Principal Judge, Family Court, Gorakhpur in Criminal Case No. 231 of 2017 (Smt. Pratibha Singh vs. Satya Prakash Singh alias Sonu) U/s 125 Cr.P.C. P.S. Chilutal, District Gorakhpur where by the learned trial court has directed the revisionist to pay Rs.10000/- per month as maintenance allowance.

3. Learned counsel for the revisionist submitted that opposite party no.2 filed a case under Section 12 of Domestic Violence Act in which the trial court has also awarded Rs. 4000/- per month as maintenance allowance but this fact was not considered by the trial court while deciding the application U/s 125 Cr.P.C. Learned counsel for the revisionist also submitted that the marriage of revisionist no.1 was solemnized on 30.11.2014 with opposite party no.2 and after some time of marriage, she was living separately at her own will without any sufficient reason and the amount awarded by the trial court is too excessive and exorbitant and also not incommensurate with the income of the revisionist. As such, the impugned judgment cannot be legally sustained and is liable to be set aside.

4. On the other hand, learned AGA and learned counsel appearing for opposite party no.2 opposes the prayer made by the counsel for the revisionist and admitted that the order passed by the trial court in Domestic

Violence Act granting Rs. 4000/- per month as maintenance allowance but when the recovery warrant was issued against the revisionist then the amount of arrears to the tune of Rs. 2,10,000/- has been paid by the revisionist. It is also submitted that the opposite party no.2 is living separately due to negligence on the part of the revisionist. Learned counsel appearing for opposite party no.2 invited the attention of this Court to the page-9 of the impugned judgment in para no.27 D.W.-1 i.e. revisionist himself has stated that he does not want to keep the opposite party no.2 on account of ideological differences along with him. Hence the amount awarded by the trial court cannot be said to be excessive and no interference is warranted by this Court.

5. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties as well as learned A.G.A. and perusal of record including the impugned judgment, it is admitted that the opposite party no.2 is legally wedded wife of the revisionist. From paragraph no.22 of the impugned judgment, the intention of the revisionist reflects that he himself does not want to keep opposite party no.2 as his wife on account of ideological differences. There is nothing on record to show any serious efforts made by the revisionist to keep his wife along with him. Hence, the findings recorded by the trial court regarding separate living, is in correct perspective. There is also no documentary evidence regarding the income of opposite party no.2 from which it is established that she is unable to maintain herself without any assistance of the revisionist.

6. So far as the income of the revisionist is concerned, no documents have been adduced by the revisionist but the opposite party no.2 has filed paper no.26 Kha in which the learned trial court has found that the revisionist is working as Area Sales Manager in Dayal Fertilizers Group and having experience of 11 years and earns Rs.6,09,005/- per annum and after calculation the monthly income of the revisionist comes out to approximately Rs. 50,000/- per month.

7. The Hon'ble Supreme Court of India in the cases of ***Rajnish 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***, has observed that the maintenance allowances can be granted up to the extent of 25% of the net income of the husband. It is also admitted that under the

provisions of Section 12 of Domestic Violence Act, the opposite no.2 is receiving Rs. 4000/- per month regularly.

8. Keeping in view the law laid down by the Hon'ble Supreme Court in the cases of ***Rajnesh Vs. Neha and Kulbhushan Kumar (Dr) v. Raj Kumari (Supras)***, this court is of the considered opinion that the amount of maintenance allowance fixed by the court below is not commensurate as per the law laid down by the Hon'ble Supreme Court in the aforesaid cases and 25% of Rs. 50,000/- per month would be total Rs. 12,500/- per month. In such circumstances, the amount of monthly maintenance allowance i.e. Rs. 10,000/- per month in favour of opposite party no. 2 in the instant proceedings under impugned judgment and Rs. 4,000/- per month awarded by the court below in favour of opposite party no.2 under the proceedings under the D.V. Act, meaning thereby that total amount of monthly maintenance allowance awarded in favour of opposite party no.2 in both the proceedings is Rs. 14,000/- which is excessive and not commensurate with the 25% of the net monthly income of the revisionist i.e. Rs.12,500/-.

9. Accordingly, the amount of monthly maintenance allowance as awarded by the trial court under the impugned judgment dated 04.07.2024 is reduced to Rs. 8,500/- per month in favour of opposite party no.2 (wife) from Rs. 10,000/- per month and the same shall be payable from the date of application as per the impugned judgment. Since the revisionist is also paying Rs. 4,000/- per month in favour of opposite party no.2 towards maintenance allowance in a proceedings under the D.V. Act, the total monthly maintenance allowance in both the proceedings i.e. Section 125 Cr.PC.. and the D.V. Act would be Rs. 12,500/- per month (Rs. 8,500/- per month in the present proceedings and Rs. 4,000/- per month in the proceedings under D.V. Act), which is the 25% of the net income of the revisionist as quantified by this Court herein above.

10. Since at present the revisionist has no regular source of income, it would be too harsh for him to pay arrears of maintenance allowance as directed above in one stroke. This Court therefore, provides that the same shall be paid by the revisionist in 12 monthly equal installments. The first installment shall commence from 5th October, 2025.

11. It is also clarified that the arrears of amount towards maintenance allowance as awarded by the court below shall be calculated on the basis of amount of maintenance allowance as fixed by this Court herein above and after that if it is found that any amount has been paid in excess, the same shall be adjusted from the amount to be paid.

- 12. The present criminal revision is, accordingly, *partly allowed*.
- 13. There shall be no order as to costs.

September 17, 2025
C. MANI

(Madan Pal Singh,J.)