



2025:AHC:169123

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6206 of 2024

Bearesh Kumar Sharma

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Manisha Singh, Pankaj Kumar
Mishra

Counsel for Opposite Party(s): G.A., Sanjay Singh

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. This matter is being taken up out of turn on the mention being made by the learned counsel for the revisionist as recovery warrant has been issued against the revisionist.

2. Heard Mr. Pankaj Kumar Mishra, learned counsel for the revisionist, Mr. Sanjay Singh, learned counsel for opposite party no.2 and the learned A.G.A. for the State.

3. This criminal revision has been filed by the revisionist under Section 397/401 Cr.P.C. with a prayer to set aside the judgment and order dated 24th September, 2024 passed by the Additional Sessions Judge, Court No.2, Aligarh in Criminal Appeal No. 34 of 2023 (Smt. Renu Sharma Vs. State of U.P. & 5 Others), under Section 29 of the Protection of Women From Domestic Violence Act, 2005, whereby the appellate court while partly allowing the appeal filed by opposite party no.2 has directed the revisionist to pay Rs. 20, 000/- per month in favour of opposite party no.2 towards maintenance allowance from the date of passing of the judgment of the court below dated 13th February, 2023. The appellate court has also directed the revisionist and Bina Sharma (Jethani of opposite party no.2) to pay Rs. 1,00,000/- to opposite party no.2 as compensation for her mental and physical harassment.

4. It is pertinent to mention here that initially opposite party no.2 has filed a complaint under Sections 12,18,19,20 and 22 of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the "D.V. Act") against her husband (revisionist herein), father-in-law,

mother-in-law, Jeth and Jethani. After trial proceedings, the Judicial Magistrate/Civil Judge (Junior Division) F.T.C.-1, Aligarh vide ex-parte judgment and order dated 13th February, 2023, while partly allowing the complaint filed by opposite party no.2 has directed the revisionist to pay Rs. 5,000/- per month to opposite party no.2 towards monthly maintenance allowance from the date of passing of the said ex-parte judgment. The court below has also awarded Rs. 25,000/- in favour of opposite party no.2 towards compensation for her physical and mental harassment to be paid by the revisionist and Jethani of opposite party no.2.

5. The learned counsel for the revisionist submits that it is no doubt true that the opposite party no.2 is legally wedded wife of the revisionist and it is under legal obligation upon the revisionist to maintain his wife. The revisionist is also ready and willing to pay the monthly maintenance allowance to opposite party no.2 but not as per the impugned judgment and order of the appellate court. He then submits that the amount of monthly maintenance allowance as awarded by the appellate court under the impugned judgment to the tune of Rs. 20,000/- is too excessive and exorbitant and not commensurate with the net monthly income of the revisionist. Learned counsel for the revisionist further submits that in compliance of the order of the ex-parte judgment and order passed by the Principal Judge, Family Court, Aligarh dated 1st August, 2019 in Case No. 71/11 of 2019 (Smt. Renu Sharma Vs. Viresh Kumar Sharma) under Section 125 Cr.P.C., the revisionist is already paying Rs. 8,000/- per month to opposite party no.2 towards maintenance allowance. However, in the impugned judgment of the appellate court itself it has been provided that the amount of monthly maintenance allowance as awarded by the trial court in other proceedings which opposite party no.2 is receiving shall be adjusted from the monthly maintenance allowance as awarded by the appellate court.

6. On the above premise, learned counsel for the revisionist submits that considering the facts and circumstances of the case and bona fide of the revisionist, the amount of monthly maintenance allowance as awarded by the appellate court under the impugned judgment to the tune of Rs. 20,000/- per month be reduced to some extent as may be fixed by this Court.

7. On the other-hand, the learned counsel for opposite party no. 2 and the learned A.G.A. for the State have opposed the submissions

made by the learned counsel for the revisionist by submitting that the appellate court has not committed any illegality or infirmity in passing the impugned judgment and awarding Rs. 20,000/- per month to opposite party no.2 (wife) towards maintenance allowance from the date of passing of the ex-parte judgment of the court below, so as to warrant any interference by this Court in exercise of revisional jurisdiction.

8. Besides the above, learned counsel for opposite party no.2 looking to the present scenario and inflation, the amount of maintenance allowance as awarded by the appellate court under the impugned judgment cannot be said to be excessive or exorbitant.

9. On the above premise, learned counsel for opposite party no.2 submits that since the appellate court while passing the impugned judgment has not committed any error in the eyes of law, therefore, present criminal revision is liable to be dismissed.

10. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties as well as perusal of record including the impugned judgment, this Court finds that it is an admitted case that the opposite party no. 2 is legally wedded wife of the revisionist and as per the settled law, the revisionist cannot shirk from his pious liabilities for maintaining his legally wedded wife. There is nothing on record to show that the opposite party no.2 has any source of income so that she may maintain her son and also herself.

11. In paragraph-6 of the impugned judgment of the appellate court, it has been recorded that as per the salary slip of the month of August, 2021, which has been obtained in accordance with the provisions of Right to Information Act, the revisionist who is working as Assistant Teacher in a basic school situated at Kanpur Dehat, was getting salary of Rs. 70,361/- per month. The said fact has not been disputed either on behalf of the revisionist or on behalf of the opposite party no.2 before the appellate court or before this Court.

12. The Hon'ble Supreme Court of India in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324 and **Kulbhushan Kumar (Dr) v. Raj Kumari** reported in (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. The maintenance amount awarded

must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury.

13. Keeping in view of the income of revisionist as well as guidelines issued by the Hon'ble Apex Court in **Rajnesh v. Neha and Kulbhushan Kumar (Dr) (Supras)**, this court is of the considered opinion that the amount of maintenance allowance fixed by the court below is not incommensurate as per the law laid down by the Hon'ble Supreme Court in the aforesaid cases and 25% of Rs. 70,361/- per month would be total Rs. 17,500/- per month. In such circumstances, the total amount of monthly maintenance allowance i.e. Rs. 20,000/- per month in favour of opposite party no. 2 as awarded by the appellate court under the impugned judgment is excessive and is liable to be reduced. Normally this Court would have remanded the instant matter under Section 125 Cr.P.C. to the trial court for deciding afresh, but looking to the huge pendency before the trial court and also for saving the precious time of the trial court, this Court is proceeding to modify the impugned judgment.

14. Consequently, judgment and order dated 24th September, 2024 passed by the Additional Sessions Judge, Court No.2, Aligarh in Criminal Appeal No. 34 of 2023 (Smt. Renu Sharma Vs. State of U.P. & 5 Others), under Section 29 of the Protection of Women From Domestic Violence Act, 2005 is modified to the extent that now the revisionist shall pay Rs. 17,500/- per month to opposite party no.2 (wife) in place of Rs.20,000/- per month regularly from the date of passing of the ex-parte judgment passed by the court below i.e. 13th February, 2023. The remaining part of the impugned judgment passed by the appellate court shall be complied with in letter and in spirit.

15. It is made clear that the amount of monthly maintenance allowance i.e. Rs. 8,000/- per month as awarded under the ex-parte judgment and order passed by the Principal Judge, Family Court, Aligarh dated 1st August, 2019 in Case No. 71/11 of 2019 (Smt. Renu Sharma Vs. Viresh Kumar Sharma) under Section 125 Cr.P.C. shall be adjusted to the amount of monthly maintenance allowance as fixed by this Court herein above on the principal of smaller monthly maintenance allowance being merged into larger monthly maintenance allowance.

16. Considering the submission of the learned counsel for the revisionist that the total amount of arrears of monthly maintenance allowance as awarded by the appellate court, which has now been reduced by this Court herein above, would be approximately Rs. 4 lakhs and it would be 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 7 monthly equal installments, provided that the revisionist shall pay Rs. 1,00,000/- within two weeks from today before the Executing Court under Section 128 Cr.P.C. for showing his bona fide, where the recovery warrant has been issued against him. The first installment shall commence from 5th October, 2025. In case the revisionist is complied with the above directions in toto, the recovery proceedings shall stand cancelled. However, in the event, the revisionist does not comply with the above directions, he shall not be entitled to the benefit of this order and the trial court shall be at liberty to proceeding against him.

17. It is also clarified that the arrears of amount towards maintenance allowance as awarded by the appellate court 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.

18. The present criminal revision is, accordingly, **partly allowed.**

19. There shall be no order as to costs.

September 19, 2025

Sushil/-

(Madan Pal Singh,J.)