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05.04.2023
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R.V.W. No. 94 of 2019
with
IA No. C.A.N. 1 of 2019
(Old No. 4218 of 2019)
in
C.O. NO. 2604 of 2018

Mithilesh Kumar Jha
-vs.-
Runa Jha

Mr. Sharanya Chatterjee
...for the petitioner

Mr. Subhrendu Halder
...for the opposite party

Learned counsel appearing for the petitioner in the revisional application submits that initially this Court, while entertaining C.O. No. 2604 of 2018, which was a challenge by the petitioner/husband against an order of alimony, took into consideration the submissions of the petitioner that the instalments granted by the trial court would fix the monthly sum of arrears at around Rs.82,500/-, when combined with the current alimony, even in the teeth of the finding of the trial court itself that the salary of the petitioner was Rs.33,249/- per month.

However, at the juncture when the civil revision was taken up for final orders, such point was not considered by the court. Hence, on the ground of such error apparent on the face of the record, the petitioner seeks review of the order dated March 01, 2019 passed in C.O. No. 2604 of 2018.

Learned counsel appearing for the petitioner submits that, if granted liberty, the petitioner is ready and willing to pay the entire arrear alimony amount by way of easy instalments.

Learned counsel appearing of the opposite party/wife opposes such prayer and points out that such arguments were not made on behalf of the petitioner at the juncture when the order under review was passed. Furthermore, it is contended that the petitioner/husband has not made any effort since the order was passed on March 01, 2019 till date, to pay a single paisa out of the total arrear amount of alimony.

To this, learned counsel appearing for the petitioner submits that the petitioner/husband has been regularly going on paying the current alimony to the opposite party/wife.

The limited scope of a review application, as is well-settled, is that the same has to come within the parameters of Order 47 of the Code of Civil Procedure.

In the present case, there is no scope of any discovery of new material. The plinth of argument of the review applicant is that there was an error apparent on the face of the order dated March 01, 2019 inasmuch as the moot question involved in the revisional application, as observed in the order dated August 16, 2018, was not considered at the time of disposal of the revisional application.

It is seen from the order dated August 16, 2018 that the same was only passed at the inception of the revisional application. The revisional application had been entertained on the question as to whether the total amount directed to be paid by the husband was more than the monthly salary of the petitioner/husband. However, it is seen from the order dated March 01, 2019 that at the time of final hearing and disposal of the revisional application, a different set of counsel appeared for the petitioner and such question was not raised before the Court.

It was observed in the order under review that the trial court took into consideration the salary certificate of the husband as well as other necessary yardsticks governing adjudication of alimony applications. It was recorded in the impugned order, as observed by this court on March 01, 2019, on the basis of the materials on record, that the salary of the husband was Rs.33,249/- per month and it was further found by the court below that though the actual income of the husband was not disclosed, even then it was clear that he was an able-bodied person and would be capable to maintain his wife and children.

This court, while passing the final order in the revisional application, further observed that it is further seen that the said amount of alimony was granted for the wife as well as two sons of the parties,

who are students. In such view of the matter, the alimony granted was not at all exorbitant and the trial court could not be said to have acted without jurisdiction in directing such sum to be paid from the date of the application, as well as litigation costs. Upon such consideration, no interference was made with the impugned order while disposing of the revisional application.

Hence, it is clear from the order dated March 01, 2019 that the argument sought to be advanced at this stage was not advanced at the time of final disposal of the revisional application, for which this court proceeded on the premise that the challenge was restricted to the quantum of alimony and decided the matter accordingly.

Although learned counsel for the revisional applicant is justified in submitting that at the time of entertaining the revisional application such point was argued, the said order was only passed on tentative findings for the purpose of entertaining the revisional application and could not have any binding effect at the final disposal of the revisional application.

Since such point was never argued by the petitioner/husband at the juncture when the revisional application was finally dismissed, nor was any whisper made with regard to the quantum of instalments being exorbitant, there is no scope of

holding that there was an error “apparent on the face of the record”.

If further arguments are required to be entertained for the pupose of deciding the review application, the entire purpose of review is frustrated and it will be going beyond the scope of such application by virtually sitting in judgment over the order passed by this court itself.

Hence, such exercise has been deprecated time and again by the Supreme Court and various High Courts. Thus, there is no scope of interference.

Accordingly, R.V.W. No. 94 of 2019 along with IA No. C.A.N. 1 of 2019 are dismissed without any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)