2026:AHC:211506

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1368 of 2018

Smt. Sonam

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s) : Pawan Singh Pundir
Counsel for Opposite Party(s) : Ashok Kumar Singh Bais, G.A.

Court No. - 86

HON'BLE JAI KRISHNA UPADHYAY, J.

1. By means of the instant criminal revision, revisionist has assailed the judgement and order dated 24.02.2018 passed by Principal Judge, Family Court, Saharanpur in Case No. 415 of 2013 (Smt. Sonam vs. Sumit), under Section 125 Cr.P.C., Police Station Sadar Bazar, District Saharanpur and prayed for enhancement of the maintenance amount.

2. Heard Sri Pawan Singh Pundir, learned counsel for the revisionist, Sri Anuj Kumar holding brief of Sri Ashok Kumar Singh Bais, learned counsel for the opposite party no. 2 and learned A.G.A. for the State.

3. The factual matrix of the case, in short, is that the revisionist was married with the opposite party no.2 on 22.05.2013 according to Hindu rites and rituals and at the time of marriage sufficient dowry was given by the parents of the revisionist but after sometime the husband and in-laws of revisionist started demand of additional dowry and due to non-fulfillment of the said demands, she was subjected to cruelty and harassment. Ultimately on 05.10.2013 she was ousted from her matrimonial house. Thereafter, she filed an application under Section 125 CrPC before the concerned Family Court upon which vide order dated 24.02.2018, learned Family Court has directed the opposite party no.2 (husband) to pay Rs.5,000/- per month to the revisionist- wife as maintenance. Being not satisfied with the said order, the revisionist has filed the present criminal revision before this Court.

4. It has been submitted by the learned counsel for the revisionist that this criminal revision has been filed on the point of quantum of maintenance payable to the revisionist contending that it is quite meagre considering the

monthly net income of the opposite party No.2 (husband). The averments have been made on behalf of the revisionists that admittedly opposite party No.2 is working in Uttar Pradesh Police as a Constable and now he is getting monthly salary more than Rs.50,000/- per month. The trial Court may have fixed at-least 25 % of the net monthly salary of the opposite party no.2, but it has awarded maintenance allowance of Rs.5000/- to the revisionist which is nominal. It has also been submitted that trial Court has not given any reason for fixing aforesaid monthly maintenance allowance payable to the revisionist. It is also submitted that since the trial Court has passed the impugned judgment and order without considering the evidence on record and without applying judicial mind, the maintenance amount should be enhanced.

5. Per contra, learned AGA as well as learned counsel for the opposite party no.2 have submitted that the trial Court has passed the impugned judgment and order on the basis of oral and documentary evidence on record and there is no ground to make interference into it. The trial Court has rightly granted a reasonable maintenance allowance, which is not liable to be altered.

6. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the impugned order carefully.

7. The revisionist has filed instant criminal revision for enhancement of the amount of monthly maintenance allowance on the ground that the trial court while fixing the amount of monthly maintenance allowance has not considered the evidence on record, therefore, the said order is illegal and is liable to be set-aside.

8. The Apex Court has held in paragraph No.9 and 10 of the judgement in **Anju Garg and Another vs. Deepak Kumar Garg: (2022) SCC OnLine SC 1314** as under :

"At the outset, it may be noted that Section 125 of Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children."

9. The Hon'ble Supreme Court in **Rajnesh vs. Neha, (2021) 2 SCC 324, Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy, AIR 2017 SC 2383** and **Kulbhushan Kumar vs. Raj Kumar, (1970) 3 SCC 129**, has

held that the amount of maintenance must be reasonable and proportionate to the paying capacity of the husband.

10. In **Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy: (2017) 14 SCC 200,** the Apex Court has held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the wife. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the capacity of the spouse to pay maintenance.

11. From a perusal of the record, it appears that the Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In **Chaturbhuj v. Sita Bai, 2008 (2) SCC 316,** it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy.

12. In this case, it is not in dispute that the opposite party no.2-husband is working as constable in the Uttar Pradesh Police and at present he is getting per month salary about Rs. 50,000/-. which is sufficient to maintain his wife. It is also not in dispute that revisionist is legally wedded wife of opposite party no. 2. The object of grant of maintenance is to afford a subsistence allowance to the wife who is not able to maintain herself. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. Maintenance awarded to a wife is not a bounty. A wife is also entitled to live with the befitting standard of husband. It is the duty of a husband to maintain his wife.

13. Hence, in view of the aforesaid factual and legal aspect, the order impugned dated 24.02.2018 is set aside for the aforesaid reasons. The prayer for enhancement of maintenance allowance made by revisionist is allowed and the maintenance amount of revisionist- wife is enhanced from Rs. 5,000/- to Rs. 7,000/- per month. The opposite party No.2 shall be bound to provide enhanced maintenance allowance to his wife from today i.e. from the date of this order.

14. With the aforesaid observations, the present criminal revision is **allowed.**

15. The copy of the order be sent to the trial Court concerned for necessary compliance, forthwith.

October 8, 2026
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(Jai Krishna Upadhyay,J.)

Digitally signed by :-
ASHOK KUMAR TRIPATHI
High Court of Judicature at Allahabad