HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2843 of 2018

Smt. Meera Devi

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s) : Upendra Kumar Mishra
Counsel for Opposite Party(s) : G.A., Indrasen Singh Tomar, Sunil Kumar Singh

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Court No. - 86

HON'BLE JAI KRISHNA UPADHYAY, J.

1. The present criminal revision has been filed by the revisionist - **Smt. Meera Devi** for setting aside the impugned order dated 23.07.2018 passed by Principal Judge, Family Court, Kushinagar at Padrauna in Maintenance Case No.136 of 2015 (Smt. Meera Devi v. Sri Surya Pratap Singh) under Section 125 Cr.P.C., P.S. Kasya, Distt. Kushinagar, whereby the Court concerned has rejected the said case.

2. List revised. None appears on behalf of opposite party no.2.

3. Heard Shri Upendra Kumar Mishra, learned counsel for the revisionist; learned AGA for the State and perused the entire record.

4. It is submitted by the learned counsel for the revisionist that the revisionist was married with the opposite party no.2 in the year 2004 according to Hindu rites and rituals and at the time of marriage sufficient dowry was given by the parents of the revisionist. It is alleged that immediately after the marriage 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 in the year 2010 she was ousted from her matrimonial house. Thereafter, she filed an application under Section 125 CrPC before the concerned

Family Court, which vide order dated 23.07.2018 has rejected the application under Section 125 CrPC. Being not satisfied with the said order, the revisionist has filed the present criminal revision before this Court. It is contended that the revisionist has no independent source of income. The parents of the revisionist had already expired and she is living with her brother, who is also having his own family and as such he can not maintain the revisionist. In the impugned order the concerned Court denied the allegations of cruelty caused to the revisionist and wrongly held that the revisionist had voluntarily abandoned the matrimonial home. The court concerned had wrongly not appreciated the injury report, which shows multiple injuries. The court concerned had given wrong finding while passing the impugned order. The impugned order is illegal and deserves interference by this Court.

5. On the other hand, learned AGA has supported the impugned order and contended that the impugned order is just and legal and there is no illegality or infirmity and the present criminal revision is bereft of merits and is liable to be dismissed.

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 inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that woman suffers when she is compelled to leave her matrimonial home. The statute commands there has to be some acceptable arrangements so that she can sustain herself. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within

the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law.

8. Further grant of maintenance to wife has been perceived as a measure of social justice by this Court in **Chaturbhuj v. Sita Bai, (2008) 2 SCC 316**. Thus, it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning. Thus, the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. When the woman leaves the matrimonial home, the situation is quite different. She is deprived of many a comfort. Sometimes the faith in life reduces. Sometimes, she feels she has lost the tenderest friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny.

9. Indisputably the revisionist is legally wedded wife of the opposite party no.2. The trial court has recorded finding that the revisionist voluntarily abandoned the matrimonial home. We find that the family court has not rightly appreciated the evidence qua multiple injuries, which shows the cruelty against the revisionist causing her ouster from matrimonial house. It is apparent that the revisionist is having no source of income. Therefore, it is incumbent upon the opposite party no.2 to provide financial succor to the revisionist.

10. Hence, considering the facts and circumstances of the case, I am of the opinion that the impugned order is not in conformity with law and evidence and suffers from material illegality, irregularity and perversity. The Criminal Revision is liable to be allowed and the same is accordingly **allowed**. The matter is remanded to the concerned Court for fresh consideration after providing full opportunity of hearing and leading of effective evidence. This exercise may be undertaken within three months from the date of production of certified copy of this order.

11. Copy of the order be sent to the concerned court through Sessions Judge within a fortnight.

(Jai Krishna Upadhyay,J.)

October 28, 2026
SP/

Digitally signed by :-
SURYA PRAKASH
High Court of Judicature at Allahabad