

Court No. - 87

Case :- CRIMINAL REVISION No. - 452 of 2022

Revisionist :- Mukis

Opposite Party :- State Of U.P. And 2 Others

Counsel for Revisionist :- Upendra Kumar Pushkar

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

This application in revision has been filed by the revisionist against the order dated 16.11.2021 passed by learned Addl. Principal Judge, Family Court, Court No. 01, Aligarh in Case No. 707 of 2017 (Smt Hasin Bano and another Vs Mukis), under Section 125 Cr.P.C., P.S. Akrabad, District Aligarh whereby the court below had directed the revisionist to pay Rs. 3,000/- to opposite party no. 2 and Rs. 2000/- to her son from the date of application.

It is very fairly contended by learned counsel for the revisionist that the court below allowed the application of maintenance filed under Section 125 Cr.P.C. by the opposite party no. 2 by awarding total maintenance to the tune of Rs. 5000/- per month from the date of application, which could not be complied with by the revisionist on account of financial difficulties. Learned counsel for the revisionist at this stage submitted that the revisionist is not in a position to pay the entire amount which is sought to be recovered from him due to his poor financial condition and some time may be given to him to deposit the said amount.

Submissions have been made by the learned counsel for the revisionist that opposite party no.2 is residing away from her matrimonial house on her free will along with her parents without any rhyme and reason. It was argued that the revisionist has no permanent source of income and he is not in a position to give such huge amount of maintenance to the opposite party no. 2 and his son and the court below had wrongly assessed the income of the revisionist while passing the impugned order. It was further argued that the trial court has allowed maintenance allowance to the opposite party no. 2 from the date of application without assigning any specific reason.

On the other hand, the 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.

Indisputably the opposite party no.2 is legally wedded wife of the revisionist. The trial court has recorded finding that opposite party no.2 is unable to maintain herself. It has also been recorded by the court below that the revisionist had turned her wife on account of non-fulfillment of dowry demands. There is sufficient material on record to prove that respondent no. 2 is simple house wife who does not have any independent earning. Therefore, it is incumbent upon the revisionist to provide financial succor to the respondent no. 2. As far as quantum of amount is concerned, it is apparent that family court itself has provided a very meager amount to respondent no. 2. Had respondent no. 2 been living with revisionist, he would have had to spend at least this much amount on her. Therefore, it cannot be said that exorbitant amount has been allowed by the concerned court. To my mind awarded maintenance allowance to the opposite party No. 2 from the date of application is wholly justified.

It should be kept in mind that Section 125 Cr.P.C. is enacted for social justice and specially to protect woman and children and also old and infirm parents and falls within the constitutional sweep of Article 14(3), re-enforced by Article 39 of the Constitution of India. The provision gives effect to the natural and fundamental duty of a man to maintain his wife, children and parents so long as they are unable to maintain themselves.

Considering the facts and circumstances of the case, I find no scope for interference in the impugned order. The impugned order is well in conformity in law and does not suffer from material illegality, irregularity, perversity and jurisdictional error.

The Criminal Revision is devoid of merit and is liable to be dismissed. It is accordingly dismissed. However, considering the averment of the counsel for the revisionist that the revisionist is ready and undertakes to pay the maintenance regularly in case the the amount sought to be recovered from the revisionist is directed to be paid to the opposite party no. 2 in easy installments.

Considering the aforesaid submission of the revisionist, to which learned AGA also has no objection, revisionist is

directed to deposit the entire amount due against him in three equal monthly installments within three months and shall also pay regularly monthly maintenance of Rs. 5000/-. In case the revisionist deposits the first installment by 15.4.2022 before the court below and further undertakes before the court below that he will pay the next installment by 10th of the each succeeding months, no coercive measures shall be taken against him for a period of three months. It is further provided that in case of default in making payment of either the first installment or the successive installments the benefit of this order shall not be given to the revisionist and the court below will be at its liberty to take appropriate steps in accordance with law.

Order Date :- 9.3.2022
RavindraKSingh