



2026:AHC:205919

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1717 of 2023

Mohammad Kamil

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Devendra Kumar Singh, Rakesh Prasad,
Utkarsh, Yogesh Mishra
Counsel for Opposite Party(s) : G.A.

Court No. - 85

HON'BLE JAI KRISHNA UPADHYAY, J.

1. The present criminal revision has been filed for setting aside the impugned order dated 25.1.2023 passed by Nyayadhikari, Gram Nyayalay, Patiyali, Kasganj in Misc. Case No. 86 of 2020, under Section 125 Cr.P.C., P.S. Ganjdundwara, District Kasganj whereby the Court concerned has directed the revisionist to pay Rs. 3,500/- per month to the opposite party no.2 as maintenance.

2. Heard Shri Vivek Kumar Singh, Advocate holding brief for Sri Yogesh Mishra, learned counsel for the revisionist and the learned AGA for the State and perused the entire record.

3. It is submitted 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 the court concerned had wrongly assessed the income of the revisionist while passing the impugned order. It is 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. The impugned order is illegal and deserves interference by this Court.

4. 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.

5. 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.

6. 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. So far as the quantum of maintenance, the Apex Court in **Jabsir Kaur Sehgal v. District Judge Dehradun & Ors. (1997) 7 SCC 7** has held as follows:-

"The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary payments or deductions. The amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate."

7. Further grant of maintenance to wife has been perceived as a measure of social justice by this Court in **Chaturbhuji 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.

8. 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 trial court that the revisionist had turned her wife on account of non-fulfillment of dowry demands. There is sufficient material on record to prove that opposite party 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 opposite party no. 2. As far as quantum of amount is concerned, it is apparent that family court itself has provided a very meager amount to opposite party no. 2. Had opposite party 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. In my view, the awarded maintenance allowance to the opposite party No. 2 from the date of application is wholly justified.

9. Hence, 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 merits and is liable to be dismissed. It is accordingly dismissed. Interim order, if any, stands vacated.

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

September 30, 2026
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(Jai Krishna Upadhyay,J.)