



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5310 of 2024

Smt Komal Lakhani

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Dileep Kumar Shukla, Kaushal Kumar, Mohit Singh
Counsel for Opposite Party(s)	:	G.A., Sujan Singh

Court No. - 40

HON'BLE GARIMA PRASHAD, J.

1. Heard Sri Mohit Singh, learned counsel for the revisionist, Sri Sujan Singh, learned counsel for the opposite party no.2 and learned A.G.A. for the State.
2. The instant criminal revision has been filed challenging the judgment and order dated 12.07.2024 passed by the learned Principal Judge, Family Court, Agra, in proceedings under Section 125 Cr.P.C., Police Station Rakatganj, Agra, whereby an amount of Rs. 15,000/- per month has been awarded to the revisionist towards maintenance from opposite party no. 2, her husband, with effect from 14.03.2022. The revisionist seeks enhancement of the amount so awarded.
3. Briefly stated, the facts of the case are that the marriage between the parties was solemnized on 31.08.2014 at Ahmedabad according to Sikh rites and ceremonies. It is not in dispute that the opposite party no. 2 is engaged in business at Ahmedabad under the name and style of M/s G.E.C. International Study Centre. Learned counsel for the revisionist contends that soon after the marriage, the opposite party no. 2 expelled her from the matrimonial home on 25.09.2014 while raising unlawful demands of dowry, following which she lodged a complaint at the Women Police Station, Agra. It is further contended that the revisionist has been abandoned by the opposite party no. 2 without any reasonable cause and that he has failed to provide any maintenance. It is submitted that although the revisionist is educated, she is presently unemployed, dependent upon her father, and incapable of maintaining herself. Learned counsel further submits that the opposite party no. 2 is an overseas educational consultant running a coaching institute, earning approximately Rs. 5,00,00,000/- annually, and is leading a luxurious lifestyle. Accordingly, the revisionist filed a petition under Section 125 Cr.P.C. in the year 2015 seeking maintenance of Rs. 25,000/- per month.

4. *Per contra*, learned counsel for the opposite party no. 2 submits that the said concern is a partnership firm in which his sister holds a 75% share, while he holds only a 25% share. It is contended that the revisionist behaved in a cruel and improper manner towards him and his family, and that she resided with him only for about twenty days before leaving and residing with her parents since 2014 without sufficient cause, thereby deserting him. The opposite party no. 2 denies all allegations. It is further contended that the revisionist is highly educated, holding an MBA degree, and was gainfully employed prior to marriage with Kotak Mahindra Company and E-Clerx, a multinational company at Pune. It is submitted that she also worked with M/s Quess Corporation Ltd., earning approximately Rs. 3,36,000/- annually, and that she has the capacity to earn more than Rs. 50,000/- per month. However, it is contended that the opposite party no. 2 earns only Rs. 15,000/- to Rs. 20,000/- per month and is burdened with the responsibility of maintaining his aged mother. It is also stated that, on account of the conduct of the revisionist, he is suffering from depression and incurring substantial legal expenses. Accordingly, dismissal of the petition is sought. The learned Family Court, after recording evidence and perusing the material on record, awarded maintenance of Rs. 15,000/- per month in favour of the revisionist. Aggrieved thereby, the present criminal revision has been filed.

6. Heard learned counsel for the parties and perused the record.

7. The fact that the revisionist is the legally wedded wife of the opposite party no. 2 is not in dispute. In her evidence before the learned Family Court, the revisionist stated that her father had retired from service as a guard. It is evident that the parties cohabited for less than one month. It is also clear from the record that the opposite party no. 2 did not make any effort to express willingness to resume cohabitation with the revisionist at any stage of the proceedings. The absence of any such offer, even during cross-examination, lends credence to the conclusion that the revisionist was justified in living separately. The learned Family Court, therefore, rightly held that the revisionist was residing separately for sufficient cause.

8. During cross-examination, the revisionist admitted that she had been employed at various places prior to marriage, including Kotak Mahindra Ltd. and E-Clerx at Mumbai, and that she holds an MBA degree and had earned approximately Rs. 37,000/- per month for over two years. However, she consistently maintained that at the time of filing the maintenance application she was unemployed, had no provident fund account, and was actively seeking employment. The absence of documentary proof such as a resume, though noted, cannot by itself negate her claim of present inability to maintain herself, particularly when assessed in the context of matrimonial breakdown.

9. The opposite party no. 2 produced certain account statements of the revisionist before the Family Court, on the basis of which it was recorded that her income was approximately Rs. 3,36,600/- in the assessment year 2018–19. It was further contended that the revisionist failed to place on record complete financial disclosures, as contemplated by the principles laid down by the Hon'ble Supreme Court in ***Rajnish v. Neha, (2021) 2 SCC 324***.

10. The mere fact that the wife is educated or possesses the capacity to earn does not, by itself, disentitle her from claiming maintenance under Section 125 Cr.P.C. What is required to be considered is her actual and present ability to maintain herself in a manner commensurate with the standard of living she enjoyed in the matrimonial home. Unless it is shown that she is gainfully employed and earning sufficient income to sustain herself, the husband cannot avoid his statutory obligation. In this regard, the Hon'ble Supreme Court in ***Chaturbhuj v. Sita Bai, (2008) 2 SCC 316***, has clearly held that the expression "unable to maintain herself" does not mean that the wife must be absolutely destitute, and the obligation of the husband to provide maintenance subsists notwithstanding the wife's earning capacity.

11. The remedy under Section 125 Cr.P.C. is summary in nature and intended to prevent vagrancy and destitution. Questions relating to dissolution of marriage or adjudication of matrimonial disputes fall within the domain of the competent civil court under statutes such as Hindu Marriage Act, 1956. Thus, the entitlement to maintenance must be assessed in light of the social and economic status of the husband and not merely on the basis of the wife's past earnings or educational qualifications.

12. In his cross-examination, the opposite party no. 2 stated that he is not the proprietor but only a partner in G.E.C. International Study Centre, holding a 25% share. However, in his Income Tax Returns for the years 2022–23 and 2023–24, he is shown as holding a 50% share, while in the ITR for 2014–15 he is shown as holding a 75% share. He expressed ignorance regarding these discrepancies and failed to offer any plausible explanation or produce the relevant ITRs for the intervening years. He further stated that while he could produce his personal ITRs, he could not produce the firm's ITRs as he is no longer associated with it. He also deposed that the company suffered losses amounting to Rs. 2,50,00,000/- due to poor business decisions and that the litigation initiated by the revisionist adversely affected his mental health and business operations. He further stated that he had taken a loan of Rs. 1,00,00,000/- from the firm in 2017 and that the liability escalated to Rs. 2,50,00,000/- by 2019. However, he declined to furnish turnover details of the firm for the preceding years.

13. The inconsistencies in his financial disclosures, coupled with his

reluctance to produce complete records, cast a serious doubt on the veracity of his claim regarding limited income.

14. His conduct further appears questionable in as much as he expressed ignorance regarding whether he is the proprietor of "Gamtu English Classes," operating from Property No. 204, Prahladnagar, Ahmedabad, Gujarat. The said property, measuring approximately 1000 square feet with a ground plus four-storey structure, stands in the name of his mother and sister. He also stated that he was unaware as to whether the firm pays rent for the said premises. Such evasive responses further weaken his stand regarding his financial incapacity.

15. As regards the educational background of the opposite party no. 2, he admitted in his cross-examination that he pursued education in Canada from 2012 to 2014 and thereafter did not take up any formal employment. He further admitted that he has been engaged in business since 1998, dealing in IELTS coaching, visa consultancy, and related services. He also admitted that G.E.C. International Study Centre was established in 2001. As per his ITR for the assessment year 2022, his gross income has been shown as Rs. 6,16,129/-. It is also relevant that an order dated 13.10.2015 had already been passed by the competent Magistrate directing payment of Rs. 13,000/- per month under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in Complaint Case No. 6 of 2015.

16. Having regard to the socio-economic status of the parties, the material on record, and the prolonged pendency of the proceedings, the amount of Rs. 15,000/- per month awarded by the learned Family Court does not appear to be just, fair, or commensurate with the standard of living to which the revisionist was entitled. The application for maintenance was filed in the year 2015, yet the claim has been adjudicated nearly a decade later by the impugned order dated 12.07.2024. In such circumstances, restricting the grant of maintenance only from 14.03.2022, instead of from the date of application i.e. 05.01.2015, is manifestly erroneous and results in grave prejudice to the revisionist. For all such reasons, the impugned order suffers from illegality and arbitrariness.

17. In view of the aforesaid facts and circumstances, and in light of the settled legal position, the present criminal revision deserves to be allowed and is accordingly allowed.

18. The matter is remanded to the learned Family Court for fresh determination of the quantum of maintenance under Section 125 Cr.P.C., in accordance with law and in light of the observations made hereinabove. It is clarified that the opposite party no. 2 shall clear all arrears of maintenance in terms of the impugned order up to date and shall continue to pay the same

regularly until the issue is re-determined. The learned Family Court shall afford adequate opportunity to both parties and endeavour to decide the matter expeditiously, preferably within a period of six months.

April 20, 2026
v.k. updh.

(Garima Prashad,J.)