

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 117 of 2024

Mahesh Nath

....Revisionist

Vs.

State of Uttarakhand and Others

.... Respondents

Mr. Dharmendra Barthwal, Advocate for the revisionist.
Mr. M.A. Khan, A.G.A. for the State of Uttarakhand.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this revision is made to order dated 12.01.2024, passed in Misc. Criminal Case No.490 of 2022, Pooja Goswami and Others Vs. Mahesh Nath, by the court of Family Judge, Haldwani, District Nainital ("the case"). By it, the revisionist has been directed to pay Rs. 7,500/-, as interim maintenance, to the respondent nos. 2 and 3 (Rs. 4,000/- to the respondent no.2 and Rs. 3,500/- to the respondent no. 3).

2. Heard learned counsel for the revisionist and perused the record.

3. The case is based on an application filed under Section 125 of the Code of Criminal Procedure, 1973 by the respondent no.2 seeking maintenance for herself and her daughter, the respondent no.3. According to it, the respondent no.2 and the revisionist

were married on 15.02.2019, but after marriage, the respondent no.2 was harassed and tortured for and in connection with the demand of dowry. During pregnancy also, the respondent no.2 was tortured. She delivered a baby girl on 02.10.2021. Depressed with the harassment and torture, on 31.01.2022, the respondent no.2 tried to commit suicide, but, in that condition also, she was assaulted by the mother of the revisionist. Thereafter,, when information was given, her paternal family members took the respondent no.2 with them. It is the case of the respondent no.2 that she is not able to maintain herself, whereas, the revisionist works in a school and gets Rs. 45,000/- per month salary.

4. In the case, an application for interim maintenance has also been filed. It has been objected to by the revisionist. According to the revisionist, the respondent no.2 did not fulfil her obligations as a wife. She did not discharge her family obligations. Dowry was never demanded. The respondent no.2 was neither abused nor beaten up.

5. According to the revisionist, the respondent no.2 has been staying separate without proper or valid reasons. She is a graduate and takes tuition. She had also filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005

("the Act") where the revisionist has been paying Rs. 5,000/- per month. The total salary of the revisionist is Rs. 28,000/-. He has to maintain his old aged mother also. He has taken a loan in the year 2021, of which he is paying monthly instalment of Rs. 10,000/-. Therefore, it is requested that the application for interim maintenance may be rejected.

6. Learned counsel for the revisionist would submit that under Section 12 of the Act, the revisionist has already been paying Rs. 5,000/- to the respondent nos. 2 and 3. Without any valid reason, the amount has been increased to Rs. 7,500/- per month. It is argued that the revisionist has liability to maintain his mother, brother. He has also taken a loan in the year 2021, of which he is paying monthly instalment of Rs. 10,000/-. Therefore, the amount of Rs. 7,500/- is on excessive side.

7. It is a revision. The scope is quite restricted to the extent of examining the correctness, legality and propriety of the impugned judgment and order.

8. In the interim order, the court has recorded that after deduction, the salary of the revisionist is Rs. 28,241/-. He has been paying Rs. 5,000/- to the respondent nos. 2 and 3. The court has taken into consideration the amount of maintenance that is paid

under Section 12 of the Act by the revisionist to the respondent nos. 2 and 3. The court, by the impugned order, has increased the amount of maintenance to Rs. 7,500/-. It is true that, as such, no detailed discussion has been made as to why the amount has been increased. But, it, per se, does not invalidate the order. After deduction, the salary of the revisionist is Rs. 28,241/-. If there are any loans, the revisionist may very well settle it. Taking loan may not be a ground, per se, to reduce the amount of maintenance. The amount of interim maintenance is not excessive in the instant case.

9. Having considered, this Court does not see any reason to make any interference in this revision. Accordingly, the revision deserves to be dismissed, at the stage of admission itself.

10. The revision is dismissed *in limine*.

(Ravindra Maithani, J.)
15.07.2024