

Court No. - 84

Case :- CRIMINAL REVISION No. - 2070 of 2025

Revisionist :- Vipul Agarwal

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

Counsel for Revisionist :- Raj Kumar Singh,Rajat Aren,Yogendra Nath Pandey

Counsel for Opposite Party :- Dinesh Kumar Gupta,G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard Sri Rajat Aren, learned counsel for the revisionist, learned counsel for opposite party No.2 as well as learned A.G.A for the State and perused the record.

This Crl. Revision has been filed by the revisionist by the revisionist with a prayer to allow the criminal revision and set aside the order dated 17.02.2025 passed by learned Additional Principal Judge,Family Court , Meerut in Crl.Case No. 951 of 2019 (Smt. Nisha Agrawal and another Vs. Vipul Agarwal), Brahmapuri, District Meerut.

It is submitted by the learned counsel for the revisionist that in this case the learned trial court has decided issue no.2 in his favour and recorded the finding that the opposite party No.2 is living separate from him without sufficient reason, even though it has fixed the amount of maintenance Rs.5000/- per month to the wife/opposite party No.2. As per provision under section 125(4) Cr.P.C if the wife lives separate from the husband without sufficient reason, she is not entitled for maintenance from him. In this way, the learned trial court has committed error in passing the order dated 17.2.2025. He also submits that the learned trial court has not considered about earning capacity of the revisionist but fixed the amount of maintenance in favour of wife and minor child, Rs.5000/- per month and Rs.3000/-per month, total Rs.8000/-per month. He also submits that he continued to pay Rs.3000/- as interim maintenance to the wife and Rs.2000/- per month to the minor child, total Rs.5000/- per month. He further submits that the order passed by learned trial court dated 17.2.2025 being illegal erroneous is liable to be set aside.

Learned counsel for opposite party No.2 as well as learned A.G.A opposed the prayer as aforesaid and contended that though issue no.2 has apparently been decided in favour of husband/revisionist but the wife /opposite party No.2 is living

separate from him due to his neglect that was the reason the learned trial court has allowed the application and fixed the amount of maintenance. He further contends that the finding recorded in issue no.2 by the learned trial court appears to be mistakenly recorded on the basis of which the order cannot be said to be illegal and erroneous.

On considering the facts and circumstances of the case, submissions made by the learned counsel for the revisionist as well as learned A.G.A, perusal of record and the order passed by the learned trial court dated 17.2.2025, it appears that in issue no.2 the learned trial court has recorded the finding that the wife/opposite party No.2 failed to prove that she is living separate from the husband with sufficient reason and the revisionist/husband is not neglecting to maintain her even though the amount of maintenance has been fixed in favour of wife/opposite party No.2 as Rs.5000/- per month. As per the provision contained under section 125(4) Cr.P.C, if the wife is living separate from the husband without sufficient reason she is not entitled for maintenance. In view of the aforesaid finding as recorded by the learned trial court in relation to issue no.2 and the order fixing the amount of Rs.5000/- per month in favour of wife, both are contradictory and in violation of provision as contained in section 125(4) Cr.P.C, therefore, the order dated 17.2.2025 being erroneous requires interference by this Court. Accordingly, the order dated 17.2.2025 is hereby set aside and the matter is remanded back to the learned trial court to decide the case afresh after giving opportunity of hearing to both the parties on the basis of material on record, in accordance with law. In the meantime the revisionist will continue to pay the amount of interim maintenance to the wife and child as fixed by the learned trial court during pendency of the application as Rs.3000/-per month to wife and Rs.2000/-per month to child, total Rs.5000/-per month.

Accordingly, this revision is ***allowed***.

Order Date :- 8.7.2025

G.S