

Petitioner :- Sanjeev Rai

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Sunil Kumar Upadhyay

Counsel for Respondent :- G.A.,Brajesh Kumar Dwivedi

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the petitioner and learned Additional Government Advocate representing the State of U.P./opposite party no. 1 and perused the record.

The present petition under Article 227 of the Constitution of India has been filed by the petitioner with the prayer to quash the order dated 27.03.2019 passed by learned Principal Judge, Deoria in maintenance petition no.74 of 2016 (Sunita Vs. Sanjeev), under Section 125 Cr.P.C., Police Station Gauri Bazar, District Deoria and order passed by learned Principal Judge, Deoria in Execution Case No.516 of 2021 (Sunita Vs. Sanjeev) arising out of original case no. 74 of 2016.

Brief facts which are required to be stated are that marriage of the petitioner was solemnized on 23.02.2014 with respondent no. 2, but their marriage was not successful. On account of acrimonious relationship between them, petitioner left her to her parental house on 12.06.2015. Thereafter she moved an application under section 125 Cr.P.C. dated 16.02.2016 claiming maintenance of Rs.40,000/- per month from the petitioner making allegation of harassment and torture against him, in which the Family Court vide order dated 27.03.2019 has directed the petitioner to pay an amount of Rs.1500/- per month as interim maintenance to the respondent no.2 from the date of order. On non- payment of the interim maintenance, respondent no.2 has initiated execution proceeding against the petitioner by moving an application dated 12.07.2021, in which show cause notice has been issued to the petitioner by the Family Court by order dated 14.09.2021.

Main substratum of argument of learned counsel for the petitioner is that several litigation between the parties are going on, therefore Additional Principal Judge, Family Court, Deoria has committed legal error in granting interim maintenance of Rs. 1500/- per month to the opposite party no.2, but after advancing his argument at some length, when the Court put certain query to him, he gave up his challenge to the aforesaid impugned order dated 27.03.2019 on merit and confined his submission praying to grant some reasonable time to the revisionist, so that he may deposit the entire arrears of maintenance amount in installments.

Learned Additional Government Advocate opposed the said prayer of learned counsel for the petitioner by contending that there is no illegality in the impugned order dated 27.03.2019. The grounds taken by the petitioner challenging the impugned order are not sustainable in law.

After having heard the argument of learned counsel for the parties, this Court feels it appropriate that no useful purpose would be served in keeping this petition pending before this Court and the same may be disposed of at this stage itself. Though after some argument the petitioner is not pressing the impugned order dated 27.03.2019 on merit, but considering the rival submissions of the parties, I am of the view that the amount of interim maintenance awarded is not only meager one, but also insufficient for respondent no. 2. It is the duty and responsibility of the husband to maintain his wife with all dignity. Now a days it is extremely difficult to conceive that a women would be in a position to maintain her with the amount of Rs. 1500/- per month. The inherent and fundamental principle behind Section 125 Cr.P.C. is far amelioration of financial state of affairs as well as mental agony and anguish that women suffers when she is compelled to leave her matrimonial home. The Amendment Act 2001 introduced an express provision for grant of "interim maintenance" under section 125 Cr.P.C. and power has been vested to the concerned Court to order for making a monthly allowance towards interim maintenance during pendency of the petition. In view of judgment of the Supreme Court in the matter of **Rajnesh versus Neha and another, (2021) 2 SCC 324**, the interim maintenance has been rightly granted to respondent no. 2, therefore, this Court feels that no interference is required in the impugned order dated 27.03.2019, as under the facts of the case, the same does not suffer from any illegality. The relief as sought by the petitioner in the instant case is hereby refused.

However, considering the alternative prayer of the petitioner, three months' time is allowed to the petitioner to pay the entire amount of arrears of interim maintenance to the respondent no.2 pursuant to impugned order dated 27.03.2019, in three equal installments. First, second and third installments shall be paid on or before 12.02.2022, 12.03.2022 and 12.04.2022. Further the current amount of interim maintenance from the month of January, 2022 to onwards shall be paid by the petitioner as per order dated 27.03.2019.

With the aforesaid observations and directions, the instant Petition is disposed of.

It is clarified that in case of default of payment of interim maintenance as directed above, the same shall be recovered in accordance with law.

Office is directed to send the copy of this order to the concerned court below as well as to the respondent no.2 within ten days.

Order Date :- 12.1.2022

Gaurav