
(2010) 10 AHC CK 0370
In the Allahabad High Court
Case No : Criminal Revision No. 588 of 2008

Ratan Kumar Tiwari

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A, 504, 506

Citation : (2010) 10 AHC CK 0370

Hon'ble Judges : Yogendra Kumar Sangal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Yogendra Kumar Sangal, J.—This revision has been filed by the Ratan Kumar Tiwari husband of the applicant of Criminal Case No. 455/2000 Smt. Durgesh Tiwari and Ors. v. Ratan Kumar Tiwari against the judgment and order dated 02.09.2008 passed by Principle Judge, Family Court, Lucknow. By the impugned judgment and order award u/s 125 Code of Criminal Procedure for the maintenance of wife and daughter of Ratan Kumar Tiwari was passed. Aggrieved by the judgment, this revision has been filed.

2. Nobody appeared on behalf of revisionist. Learned Counsel for the Respondent-opposite parties No. 2 and 3 as well as learned Additional Government Advocate for the State is present.

3. Heard learned Counsel for the parties and perused the record.

4. From the record, it reveals that it is not disputed to the revisionist that Respondent No. 2 Smt. Durgesh Tiwari is his wife and out of wedlock, Respondent No. 3 Kumari Shubhi Tiwari (aged about 10 years) was born. In the application u/s 125 Code of Criminal Procedure, Respondent No. 2 had pleaded that she was being harassed and tortured by her in-laws including her husband

for non-fulfillment of demand of dowry. On 16.06.1998 her husband also made attack on her with knife and she was ousted from her matrimonial house when she was pregnant. At the time of delivery of the baby, husband and his family members were informed, but none came for her help in any way. Since then, she is living in her parent house. She has no means to maintain herself and her daughter. Her husband-revisionist is in service of Lucknow Development Authority and earning Rs. 10,000/- per month. She made demand of Rs. 5,000/- per month for maintenance of herself and her daughter and also prayed for return her "Stridhan" withheld by the revisionist-applicant. The contents of the application were replied by the revisionist-applicant admitting his marriage and out of their wedlock, a daughter was born, but he had denied the rest contents of the application saying that she is in say of her brother and residing with in her parental house as per her own will. Wrong facts has been mentioned in the application u/s 125 Code of Criminal Procedure. Under the order of learned family Court, he is paying interim maintenance to the applicant and her daughter. Without permission of his family members, she used to left her matrimonial house and when she was asked in this regard, she badly abused and threatened them. With the wrong allegations, a case u/s 498-A, 504 and 506 IPC read with Section 3/4 Dowry Prohibition Act was got registered by her and in relation of that case, he and his family members remained in jail. He was also suspended by the department. She is highly educated and M.A. In Political Science and engaged in tuition work having sufficient income and she can very well maintained herself and her daughter.

5. Reply of the written statement was filed by the applicant in the family court. Statement of applicant Smt. Durgesh Tiwari and in reply the statement of the revisionist-applicant were recorded by the learned trial court and after hearing the argument and perusing the record, by impugned judgment and order, learned Judge of Family Court has passed the award and directed the revisionist-applicant to pay Rs. 2,000/- per month for the applicant and Rs. 1,000/- per month for daughter born out of wedlock from August, 2001. Learned Judge of Family Court has also made arrangement for payment of maintenance also from the date of the application with some other rate for both the applicants.

6. Matter was also referred to the Mediation and Conciliation Centre of this Court, but from the report, it is clear that mediation was failed as parties were not willing for mediation.

7. No sufficient cause is there for absence of the revisionist and his counsel at the time of argument in the matter.

8. I have gone through the contents of the judgment and order passed by the learned Judge, Family Court. Sufficient and detailed reasons are there in the judgment for awarding the maintenance to both the applicants i.e. Respondents No. 2 and 3. There is no sufficient evidence on record showing that Respondent No. 2 is having any income from tuition work. It is admitted to the revisionist that he is in service in Lucknow Development Authority. There is no denial of this

fact that his salary is about Rs. 10,000/- per month.

9. It was claimed on his behalf before the learned trial court that his old mother is there and he has to maintain her also. It is further said that some loan is there on him and he has to re-pay that and he is receiving only Rs. 5,000/- per month out of his salary. It is there that he was remained in suspension as he was in jail in case u/s 498-A, 504 and 506 IPC, but now it is clear from the record itself that his suspension order has come to an end and now he is in regular service of Lucknow Development Authority. It is legal and moral duty of the applicant-revisionist to maintain his wife and daughter. Sufficient reasons are there on record as to why she is living with her parents and not coming to her matrimonial house. It was argued on behalf of the Respondent that false allegations to assassinate the character of the Respondent No. 2 were made by the revisionist which were also not believed by the learned trial court. There appears no illegality, invalidity and impropriety in the impugned order passed by the learned trial court.

10. Seeing the facts and circumstances of the case, I do not find any cause for interference in revision proceedings in the impugned judgment and order. Revision has no force. Accordingly, revision is hereby dismissed. Stay order, if any, shall stand vacated.