
(2010) 08 UK CK 0101
In the Uttarakhand High Court

Roshan Singh Rana

APPELLANT

Vs

Smt. Kasturwati and Another

RESPONDENT

Date of Decision : 04-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 397, 401
Family Courts Act, 1984 — Section 19(4)

Citation : (2010) 08 UK CK 0101

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Judgement

Dharam Veer, J.—This criminal revision, preferred u/s 397/401 of The Code of Criminal Procedure, 1973 (hereinafter to be referred as Cr.P.C.) r/w Section 19(4) of the Family Courts Act, 1984, is directed against the judgment and order dated 26.11.2009 passed by Judge, Family Court, Udham Singh Nagar in Misc. Criminal Case No. 299 of 2007, Smt. Kasturwati and Anr. v. Roshan Singh, whereby the learned Judge allowed the application moved by respondent No. 1 u/s 125 Cr.P.C. and directed the revisionist to pay maintenance at the rate of Rs. 2,000/-per month to his wife (respondent No. 1) and Rs. 1,000/- per month to his minor son (respondent No. 2) until he attains majority (in total Rs. 3,000/-per month) from the date of application i.e. 30.11.2007.

2. Heard learned Counsel for the parties and perused the material available on record.

3. Brief facts of the case are that respondent No. 1 got married to the revisionist in February 1989 as per Hindu RITES. It is alleged that for some time after the marriage, the behaviour of the revisionist remained normal with the respondent No. 1 but thereafter the revisionist started harassing her physically and mentally for the demand of dowry, however, she continued to bear the same for the sake of her matrimonial life. A male child was born out of the wedlock. It is further alleged that after 15 days of the birth of the child, the revisionist ousted the respondent No. 1 along with her child (respondent No. 2) from the house for the

demand of Rs. 50,000/-, T.V. and a Fridge, in dowry. It is alleged that since then the respondent No. 1 along with her son/respondent No. 2 is residing at her parental house and the revisionist has not paid any heed towards her. It is stated that she is having no source of income and is unable to maintain herself and her son. On the other hand, it is stated that the revisionist is having about 2 or 3 Acres of land, a residential house and also a dairy and from all these resources, he is getting monthly income of Rs. 20,000/-. It is also alleged that the revisionist has solemnized second marriage. With these averments, an amount of Rs. 10,000/- per month was sought as maintenance allowance by the respondent No. 1 for the respondents against the revisionist.

4. The revisionist also appeared before the court below and filed his objections. He has admitted the fact of marriage with respondent No. 1 but has denied rest of the averments made in the application u/s 125 Cr.P.C.

5. After hearing learned Counsel for the parties and appreciating the entire material available on file, learned Judge, Family Court, Udham Singh Nagar vide his judgment and order dated 26.11.2009 directed the revisionist as above. Feeling aggrieved by the aforesaid judgment and order, the revisionist/husband has preferred the present revision before this Court.

6. Learned Counsel for the revisionist argued that that the court below has awarded the amount of maintenance against the revisionist without appreciating the evidence on record. I do not find force in the argument put forth by learned Counsel for the revisionist. Respondent No. 1/wife has levelled a charge against the revisionist that the revisionist used to harass her physically and mentally for the demand of dowry. After three years of the marriage, she gave birth to a son. But after fifteen days of the birth of the son, the revisionist ousted her along with the child from the house for the aforesaid demands due to which she is bound to live at her parental house. The revisionist has stated in his objections that the respondent No. 2 is not born out of the wedlock of the revisionist and the respondent No. 1. However, no reliable evidence was produced by the revisionist in support of this fact. Hence, the court below rightly recorded the finding that the respondent No. 2 is the son of revisionist and respondent No. 1. So far as the income of the revisionist is concerned, the respondent No. 1 has stated in her application that the revisionist is earning Rs. 20,000/- per month from different sources. On the other hand, the revisionist has himself admitted that he is an Agriculturist. In this regard, the court below has rightly recorded a finding that as per the revisionist, if he is agriculturist, he must have been getting at least Rs. 6,000/- per month. Thus, in view of the aforesaid discussion, it is proved that the respondent No. 1 is the legally wedded wife of the revisionist. She is unable to maintain herself and her son and due to ousting by revisionist for the demand of dowry, she along with her son (respondent No. 2) is compelled to live at her parental house. On the other hand, the revisionist is intentionally neglecting the respondents though he has got sufficient means to maintain them. Thus, the court below has rightly determined the monthly maintenance to be paid to the

respondents against the revisionist as discussed above.

7. In view of the above-said discussion, I do not find any illegality, impropriety or incorrectness in the impugned judgment and order dated 26.11.2009 passed by Judge, Family Court, Udham Singh Nagar.

8. For the reasons recorded above, the revision is dismissed. Interim order dated 8.3.2010 passed by this Court stands vacated.