

(2022) 11 UK CK 0016
In the Uttarakhand High Court
Case No : Criminal Revision No. 652 Of 2022

Sunil Kumar Chauhan

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 03-11-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 125

Citation : (2022) 11 UK CK 0016

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Devang Dobhal, Lalit Miglani, Sonika Khulbe

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. The challenge in this revision is made to the order dated 26.07.2022, passed in Misc. Criminal Case No.14 of 2021, Smt. Ranjita and another vs. Sunil Singh Chauhan, by the court of Judge, Family Court, Tehri Garhwal (for short, "the recovery case"). By it, an application filed by the mother of the respondent no.2, seeking maintenance for herself and her daughter has been decided. The respondent no.2, the daughter has been awarded Rs. 7,500/- per month maintenance from the date of filing of the application. The mother of the respondent no.2 i.e. the wife of the revisionist has been denied maintenance.

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

3. The basis of the case is an application for maintenance, filed under Section 125 of the Code of Criminal Procedure, 1973 (for short, "the Code") by the wife of the revisionist seeking maintenance for herself and her daughter the respondent no.2. According to it, the revisionist and the mother of the respondent no.2 were married on 15.01.2008 and since thereafter, the wife of the revisionist was tortured in her in-laws' house, due to which, she under compulsion, started staying separately with the respondent no.2. According to

the wife of the revisionist, she is working on contract basis. The revisionist runs a shop, he has certain shops from which he is receiving rent; he has a car also, he is a man of means. The application was objected to. By the impugned order, the application under Section 125 of the Code had been partly allowed, the wife of the revisionist has been denied maintenance on the ground that she is able to maintain herself, but the daughter of the parties, who is respondent no.2, has been granted Rs. 7,500/- per month maintenance. It is impugned herein.

4. Learned counsel for the revisionist would submit that it is the responsibility of both, the revisionist and his wife to maintain their daughter; the revisionist alone cannot be held responsible for it; the revisionist is not a man of such means, who could pay Rs. 7,500/- per month. At the end of his arguments, learned counsel for the revisionist would submit that during the pendency of the case also, the revisionist has been paying interim maintenance to the respondent no.2, the daughter, but it has not been adjusted by the impugned judgment and order.

5. This is a revision, the scope is quite limited to the extent of examining legality, propriety and correctness of the impugned judgment and order.

6. It is not in dispute that the revisionist is under obligation to maintain her minor daughter. It is also admitted that the minor daughter, who is the respondent no.2, is not able to maintain herself. It is admitted that the revisionist runs a shop. He has stated in his examination that he had taken a shop on rent from his father @ Rs. 1,000/- per month. He also admitted that he is the only son of his father. The sister of the revisionist in her cross-examination has stated that the revisionist also runs taxi.

7. The court below fixed the income of the revisions as Rs. 20,000/- per month. This Court does not see any reason to make any interference in it. Undoubtedly, for the want of any document, as such, any estimation could definitely remain in the realm of estimation, which is arrived at on keeping in view all the attending factors. In the instant case, the court below has taken into consideration the fact that the revisionist runs a shop, he also runs taxi and thereafter, his income has been assessed. This assessment cannot be said to be incorrect, improper or illegal. There is no other issue that has been made. Therefore, this Court is of the view that there is no merit in the revision and it deserves to be dismissed at the stage of admission itself.

8. However, it has also been argued that the revisionist had been paying interim maintenance to his daughter during the pendency of the case. It definitely would be adjusted. The amount which had been paid by the revisionist to the respondent no.2, as interim maintenance shall be adjusted towards the amount which is due under the impugned judgment and order.

9. With the above observation, the revision is dismissed in limine.