

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL REVISION No. 88 of 2002

Vikas Jain . . Revisionist

Versus

Smt. Deepali @ Ayushi Jain Respondent

October 25, 2010

Mr. Arvind Vashistha, Advocate for the revisionist. Mr. Tapan Singh, Advocate holding brief of Mr. Lok Pal Singh, Advocate for the respondent.

HON'BLE DHARAM VEER, J.

This criminal revision has been preferred against the judgment and order dated 4.9.2002 passed by the Principal Judge, Family Court, Haridwar in Case No. 66/2002, Deepali Jain v. Vikas Jain u/s 125 CrPC, whereby the Principal Judge, Family Court has allowed the said application of wife/respondent and awarded the consolidated maintenance of Rs. 5000/- per month for the respondent and her minor son with effect from the date of making the said maintenance application i.e. 22.5.2000.

2. Briefly stated facts of the case are that the respondent moved an application with the averments that she was married to the revisionist as per Hindu rites on 21.11.1996 and her parents had given dowry according to their status. A son born out of the said wedlock on 26.2.1998. Revisionist and her in-laws were not happy with the dowry given in the marriage and they demanded Rs. 50,000/- as well as some other articles like TV, fridge, scooter etc. They started harassing the respondent for dowry. She was also abused and beaten. Ultimately, the respondent was ousted from the house of her in-laws on 5.3.2000. They also did not return her stridhan. Subsequently she suffered paralytic attack and became handicapped. With these averments, she moved the aforesaid application claiming maintenance of Rs. 5000/- per month for herself and her minor son by stating that she 2

is handicapped and she is unable to maintain herself and her minor son, whereas the revisionist earns Rs. 20,000/- per month through marketing business and he has got no other responsibility.

3. After hearing learned Counsel for the parties and after appreciating the evidence on record and considering the facts and circumstances of the case, learned Principal Judge, Family Court allowed the aforesaid application of the respondent and directed the revisionist to pay the maintenance of Rs. 5000/- per month for the respondent and her minor son with effect from the date of making the said maintenance application. Being aggrieved, the revisionist has preferred the present revision before this Court.

4. I have heard learned Counsel for the parties and perused the papers available on record.

5. Perusal of impugned judgment and order dated 4.9.2002 reveals that the court below has considered all the circumstances in the entirety. Moreover, it is not the case of the revisionist that respondent is having some other source of income from which she can maintain herself and her minor son. Furthermore, it is undisputed that the respondent suffered paralytic attack and became handicapped, whereas the revisionist was engaged in marketing business at that time and had got sufficient means to maintain his wife and minor son. In these circumstances, revisionist cannot shirk himself from the responsibility of maintaining his wife.

6. But learned Counsel for the revisionist argued that subsequently the respondent has been given appointed as a teacher in Govt. school vide order dated 24.12.2005 and 3

now she has got enough income to maintain herself and her minor son. Learned Counsel for the respondent also admitted that now the respondent is in regular Govt. service. Copy of the appointment order dated 24.12.2005 and salary certificate of the respondent have also been produced on record. Learned Counsel for the revisionist also argued that now the revisionist has left his previous job and he is unable to pay the monthly maintenance of Rs. 5000/- to the respondent.

7. Having heard the submissions of learned Counsel for the parties and in view of the aforesaid changed facts and circumstances of the case, the Court is of the view that now the respondent is not entitled to get any maintenance from the revisionist as she has been appointed as a teacher in Govt. run school vide appointment letter dated 24.12.2005 and thus she has got sufficient means to maintain herself. However, the revisionist cannot shirk himself from the responsibility of maintaining his minor son. Therefore, it is held that the respondent is not entitled to get any maintenance w.e.f. January, 2006 as she has been given appointment vide letter dated 24.12.2005. However, revisionist is directed to pay Rs. 3000/- per month to his minor son with effect from the date of the impugned judgment and order i.e. 4.9.2002 till the date of attaining his majority. It is further made clear that arrears of maintenance @ Rs. 5000/- shall be paid to the respondent w.e.f. from the date of impugned order i.e. 4.9.2002 till December, 2005.

8. In the result, the revision is partly allowed. Judgment and order dated 4.9.2002 passed by the Principal Judge, Family Court, Haridwar in Case No. 66/2002, Deepali Jain v. Vikas Jain u/s 125 CrPC stands modified to the extent indicated above. Interim order dated 4.10.2002 stands 4

vacated. Arrears of maintenance after adjusting the amount already given in terms of the interim order dated 4.10.2002 shall be paid to the respondent within three months from the date of this order.

(Dharam Veer, J.)

25.10.2010

PRABODH