



2026:AHC:7048

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7216 of 2025

Smt. Sapna And Another

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s) : Mohd Adnan Khan, Mohd. Imran, Syed Safdar Ali Kazmi

Counsel for Opposite Party(s) : Alok Kumar Srivastava, G.A., Yogesh Kumar

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. No one appears for opposite party no.2 even in the revised reading of the list.

2. Heard learned counsel for revisionists and learned A.G.A. for the State as well as perused the record.

3. This criminal revision has been filed by the revisionists under Section 397/401 Cr.P.C. with a prayer to modify the ex parte judgment and order dated 22nd May, 2024 passed by the Principal Judge, Family Court, Mathura in Case No. 345 of 2022 (Smt. Sapna Vs. Raees Khan), under Section 125 Cr.P.C., Police Station-Raya, District Mathura, insofar as the trial court has awarded Rs. 4,000/- per month to revisionist no.1 (wife) and Rs. 1,000/- per month to the revisionist no.2 (daughter) towards monthly maintenance allowance from the date of filing of instant application. The revisionists by means of the present revision also prays for enhancement of the amount of monthly maintenance allowance as awarded under the impugned ex parte judgment.

4. The sole and solitary contention of the learned counsel for the revisionist is that the total amount of monthly maintenance allowance as awarded by the trial court under the impugned ex parte judgment in favour of the revisionist to the tune of Rs. 5,000/- per month is too meagre amount looking to the current inflation and cost of food, clothes etc. Referring to some photographs brought on record at page 30 of the paper book, learned counsel for the revisionists submits that opposite party no.2 is running an Auto Work Shop and Spare Parts Shop in the name and style of "Raheesh Auto Service Centre and Spare Parts", from which the opposite party no.2 earns more than Rs. 50,000/- per month.

5. On the above premise, learned counsel for the revisionists prays that considering the above facts and circumstances and the current inflation, the amount of maintenance allowance awarded by the trial court under the impugned ex parte judgment be enhanced to some extent after modifying the impugned judgment passed by the trial court.

6. Learned counsel for the revisionist states that .. Rs.5000/- is meager keeping in view the present he also submitted that opposite party running a workshop of two wheeler and his income is not less than Rs.50,000/-. He invited the attention of this Court towards page-30 photograph of the workshop auto service Centre run by opposite party. Except above, no other issue has been raised.

7. On the other-hand, the learned A.G.A. for the State has opposed the submissions made by the learned counsel for the revisionists by submitting that since the opposite party no.2 is a skilled labourer and runs an Auto Workshop but the same are not permanent, therefore, the trial court has not committed any illegality or infirmity in passing the impugned ex parte judgment and awarding Rs. 5,000/- per month in total in favour of the revisionists from the date of filing of application under Section 125 Cr.P.C. so as to warrant any interference by this Court in exercise of revisional jurisdiction.

8. On the above premise, learned A.G.A. submits that since the trial court while passing the impugned judgment has not committed any error in the eyes of law, therefore, present criminal revision is liable to be dismissed.

9. Except the above issue, no other issues have been raised either by the learned counsel for the revisionists nor by the learned A.G.A. for the State.

10. I have considered the facts and circumstances of the case, the submissions made by the learned counsel for the parties and perused the records including the impugned ex parte judgment.

11. Since the judgment and order impugned is an ex parte judgment and the learned counsel for the revisionists and the learned A.G.A. for the State have raised only one issue referred to above, this Court is not inclined to express any opinion on the other issues raised in the impugned ex parte judgment.

12. So far as the issue raised above is concerned, this Court finds that no documentary evidence has been adduced before the trial court with regards to exact income of the opposite party no.2. It is no doubt true that the revisionists have enclosed photographs of the workshop and shop run by the opposite party no.2 in the name and style of "Raheesh Auto Workshop and Spare Parts" but from which it is not discernible as to what is the exact monthly

income of the opposite party no.2. However, it is admitted position that the opposite party no.2 is a skilled labourer and also runs an Auto Workshop and he has also not claimed that he is physical deformed person.

13. The Hon'ble Supreme Court of India in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324 has opined that since it is the sacrosanct duty of the husband to provide financial support to the wife, the husband is required to earn money even by physical labour, if he is able-bodied, and cannot not avoid his obligation.

14. In that circumstance, at the present time, in the opinion of the Court, if the revisionist, who is an able bodied person, is treated as a skilled labourer at present, he would earn Rs. 800/- per day and his monthly income would be Rs. 24,000/- per month.

15. The Hon'ble Supreme Court of India in the cases of **Rajnesh Vs. Neha and Kulbhushan Kumar (Dr) v. Raj Kumari** reported in (1970) 3 SCC 129, has observed that the maintenance allowances can be granted up to the extent of 25% of the net income of the husband. The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury.

16. Keeping in view of the income of revisionist as well as guidelines issued by the Hon'ble Apex Court in **Rajnesh and Kulbhushan Kumar (Dr) (Supras)**, this court is of the considered opinion that it is admitted position that opposite party no.2 is an skilled labourer and he would earn Rs. 24,000/- per month, therefore, 25% of Rs. 24,000/- would be Rs. 6,000/- and in that circumstance, the total amount of maintenance allowance fixed by the trial court at Rs. 5,000/- in favour of revisionists is too meagre amount and the same deserves to be enhanced to total Rs. 6,000/- per month from Rs. 5,000/- per month from the date of filing of the instant application.

17. Consequently, the ex parte judgment and order dated 22nd May, 2024 passed by the Principal Judge, Family Court, Mathura in Case No. 345 of 2022 (Smt. Sapna Vs. Raees Khan), under Section 125 Cr.P.C., Police Station-Raya, District Mathura is modified to the extent that now the opposite party no.2 shall pay Rs. 4,000/- per month to the revisionist no.1 (wife) and Rs. 2,000/- per month to revisionist no.2 (minor daughter) in place of Rs. 1,000/- per month towards maintenance allowance from the date of filing of the instant application. Since the opposite party no.2 is a Class-III employee, it would be too harsh for him to pay the same in one stroke. Therefore, this

Court directs the opposite party no.2 to pay the total arrears of maintenance allowance as directed above in 10 equal monthly installments. The first monthly installment shall commence from 5th February, 2026.

18. It is also clarified that the arrears of amount towards maintenance allowance as awarded by the court below shall be calculated on the basis of amount of maintenance allowance as fixed by this Court herein above and after that if it is found that any amount has been paid in excess, the same shall be adjusted from the amount to be paid.

19. It is made clear that as and when the financial condition of opposite party no.2 is changed, the revisionists shall be at liberty to make an application under Section 127 Cr.P.C. for enhancement of the monthly maintenance allowance as referred to above and any observations made by this Court herein above shall not affect the merits of the case to be pleaded by both the parties in the proceedings under Section 127 Cr.P.C.

20. The present criminal revision is, accordingly, partly **allowed**.

21. There shall be no order as to costs.

January 12, 2026
R.S. Tiwari

(Madan Pal Singh,J.)