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Neutral Citation No. - 2026:AHC:80305

Reserved on : 17th February, 2026

Delivered on : 10th April, 2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 9426 of 2025

Amit Kumar Rana

.....Petitioner(s)

Versus

State of U.P. and another

.....Respondent(s)

Counsel for Petitioner(s) : Ram Bilas Prasad
Counsel for Respondent(s) : Anoop Singh, G.A., Janardan
Singh

Court No. - 86

HON'BLE HARVIR SINGH, J.

1. Heard learned counsel for the parties and perused the material available on record.

2. The instant petition has been filed against the impugned orders dated 25.3.2025 and 1.10.2024 under Section 127 Cr.PC, passed by the Gram Nyayalaya, Dhampur, District Bijnor.

3. Learned counsel for the petitioner submits that initially, an order dated 6.3.2019 was passed by Principal Judge, Family Court, Bijnor, under Section 125 of the Code of Criminal Procedure, 1973 (corresponding Section 144 of

Bharatiya Nagarik Suraksha Sanhita, 2023), wherein the learned Principal Judge, Family Court, Bijnor has awarded a sum of Rs. 3,000/- to respondent No.2, as monthly maintenance, to be paid from the date of filing of application i.e. 28.4.2016. Thereafter, aggrieved by order dated 6.3.2019, the petitioner moved a Criminal Revision No.1804/ 2019, challenging the order dated 6.3.2019 on various grounds taken in the petition, wherein an order was passed by this Court on 3.5.2019. The relevant/ operative portion of the said order dated 3.5.2019 passed by this Court is reproduced herein-under:-

"The operation of impugned order dated 06.3.2019 shall remain stayed provided and with the condition that the applicant shall continue to pay the maintenance amount Rs.3000/- to the opposite party no.2 per month regularly from the date of order and not from the date of filing of application, during the pendency of this application or till further orders of this Court.

It is clarified that only the payment of arrears amount, accruing for the period in between the date of application and the date of order, is being stayed by this Court till further orders of this Court.

It is observed that if the applicant fails to comply with the aforesaid condition, the interim order of stay passed by this Court shall be deemed to have been vacated automatically."

4. Thereafter, the only point stressed before the Court by the petitioner is that the respondent no.2, i.e. his wife, got remarried on 26.01.2020, with one Manoj Kumar, therefore, she is not entitled for any maintenance amount. On the other hand, it may usefully be noted that respondent no.2 filed an application under Section 125 of the Code of

Criminal Procedure, 1973 (corresponding Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023) on 28.04.2016 i.e. much earlier than the date of alleged marriage and that, she was granted maintenance from the date of application only. It may be noted that, under the provision of Section 127 of the Code of Criminal Procedure, 1973, on proof of change in the circumstances of the income of a person, who is receiving any monthly maintenance under Section 125 of the Code of Criminal Procedure, 1973 (corresponding Section 144 of Bhartiya Nagrik Suraksha Sanhita, 2023), the Magistrate/ Court concerned may make such alteration in the order of maintenance, as he thinks fit. The Court concerned has power to cancel any order, which was passed by it, (under Section 125 of the Code of Criminal Procedure, 1973) in respect of a woman, from the date of her remarriage. Thus it is clear from the above provision, that in case of such an eventuality, husband may approach the Court concerned for recall/ cancellation of the order. This fact can not be decided in the instant petition, there being an alternate efficacious statutory remedy available under law.

5. Learned counsel for the petitioner further submits, that the petitioner herein filed a Miscellaneous Application No. 375 of 2021, under Section 127 of the Code of Criminal Procedure, 1973 before the learned Principal Judge, Family Court, Bijnor on the ground that, the circumstances have changed, as the respondent No. 2, the wife of the petitioner, got remarried, with the third person and in that event, the petitioner was not obliged to pay any amount of maintenance. The said Miscellaneous Application No. 375 of 2021 was limited to the extent, that circumstances have changed and because of the change in circumstances, i.e.,

the alleged remarriage of respondent No. 2, with a third person, the order dated 6.3.2019 was prayed to be recalled. Respondent No. 2/ wife of the petitioner filed an objection in respect of Miscellaneous Application No. 375 of 2021, before learned Principal Judge, Family Court. However, the said Miscellaneous Application No. 375 of 2021 has taken a different turn at that stage, as much as, all the cases pending before the learned Principal Judge, Family Court/ learned Additional Principal Judge, Family Court, Bijnor, pertaining to Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023), were directed to be transferred to Gram Nyayalaya and the said order was passed by the then District Judge, Bijnor vide Administrative Order No.821/ 2024, dated 22.2.2024, in furtherance of Notification No.331/ Admin. (Services)/2024, dated 15.2.2024 issued by this Court, on the administrative side and pursuant to Notification Nyay Anubhag-2 (Subordinate Courts) No. 4/2024/89/ VII-Nyay-2-2024-216 G/ 2007 T.C.-II, Lucknow, dated 14.2.2024 issued by State Government. By this notification dated 14th February 2024, the then Additional Civil Judge (Junior Division), Bijnor was appointed/ posted as Nyayadhikari, Gram Nyayalaya at Tehsil Dhampur, District Bijnor, in the newly created Court vide G.O. No. 25/ 2015/ 1462/ VII-Nyay-2-2015-2160/ 2007 dated 24.11.2015. By the Administrative Order No.821/ 2024, dated 22.2.2024, the then District Judge directed all the Civil Judges (Junior Division) and Judicial Magistrates of the District Court, Bijnor to prepare a list of relevant civil and criminal cases falling under Tehsil Dhampur area, to be transferred to newly created Gram Nyayalaya, Dhampur, pursuant to Notification Nyay Anubhag-2 (Subordinate Courts) No. 4/2024/89/VII-Nyay-2-2024-216 G/2007 T.C.-II,

Lucknow, dated 14.02.2024 issued by State Government and as per the jurisdiction mentioned in Gram Nyayalaya Act, 2008 and also, to make it available in the office of District Judge. In the said order dated 22.2.2024, a reference was made to the First Schedule and Second Schedule of Gram Nyayalaya Act 2008, stating therein, that Gram Nyayalaya has jurisdiction over the subjects mentioned in the said Schedule 1 and 2. Part I and Part II of the First Schedule and Part I of the Second Schedule are reproduced below:-

"THE FIRST SCHEDULE

(See Sections 12 and 14)

PART I

OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860), ETC.

(i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(ii) theft, under Section 379, Section 380 or Section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;

(iii) receiving or retaining stolen property, under Section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;

(iv) assisting in the concealment or disposal of stolen property, under Section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;

(v) offences under Sections 454 and 456 of the Indian Penal Code (45 of 1860);

(vi) insult with intent to provoke a breach of the peace, under Section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under Section 506 of the Indian Penal Code (45 of 1860);

(vii) abetment of any of the foregoing offences;

(viii) an attempt to commit any of the foregoing offences, when such attempt is an offence.

PART II**OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS**

(i) any offence constituted by an act in respect of which a complaint may be made under Section 20 of the Cattle-trespass Act, 1871(1 of 1871);

(ii) the Payment of Wages Act, 1936 (4 of 1936);

(iii) the Minimum Wages Act, 1948 (11 of 1948);

(iv) the Protection of Civil Rights Act, 1955 (22 of 1955);

(v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);

(vii) the Equal Remuneration Act, 1976 (25 of 1976);

(viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005).

THE SECOND SCHEDULE

(See Sections 13 and 14)

PART I**SUITS OF A CIVIL NATURE WITHIN THE JURISDICTION OF GRAM NYAYALAYAS****(1) Civil Disputes:**

(a) right to purchase of property;

(b) use of common pasture;

(c) regulation and timing of taking water from irrigation channel.

(2) Property Disputes:

(a) village and farm houses (Possession);

(b) water channels;

(c) right to draw water from a well or tube well.

(3) Other Disputes:

(a) claims under the Payment of Wages Act, 1936 (4 of 1936);

- (b) claims under the Minimum Wages Act, 1948 (11 of 1948);*
- (c) money suits either arising from trade transaction or money lending;*
- (d) disputes arising out of the partnership in cultivation of land;*
- (e) disputes as to the use of forest produce by inhabitants of Gram Panchayats."*

6. Hence, the then Principal Judge, Family Court, vide letter No. 844/ Family Court/ Bijnor, dated 28.01.2026, has transferred, all such cases pertaining to sub-clause (v) of part II of the First Schedule of Gram Nyayalaya Act, 2008, i.e. order for maintenance of wives, children and parents, under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974), and consequently, the Miscellaneous Application No. 375 of 2021, which was pending disposal before the learned Additional Principal Judge, also got transferred to Gram Nyayalaya, Dhampur, Bijnor.

7. Learned counsel for the petitioner has raised a legal issue that the Gram Nyayalaya was not competent to pass any order, if a subject matter has been adjudicated and decided by the Family Court Judge i.e. learned Principal Judge/ learned Additional Principal Judge, Family Court, who is an officer of the rank of Higher Judicial Service Cadre, even if, jurisdiction has been conferred upon the Gram Nyayalaya to decide the cases, pertaining to sub-clause (v) of part II of the first Schedule of Gram Nyayalaya Act, 2008, but continues to be exercised by the Family Courts as well, on concurrent basis i.e. both the Gram Nyayalaya and Family Court will have jurisdiction over Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023), concurrently.

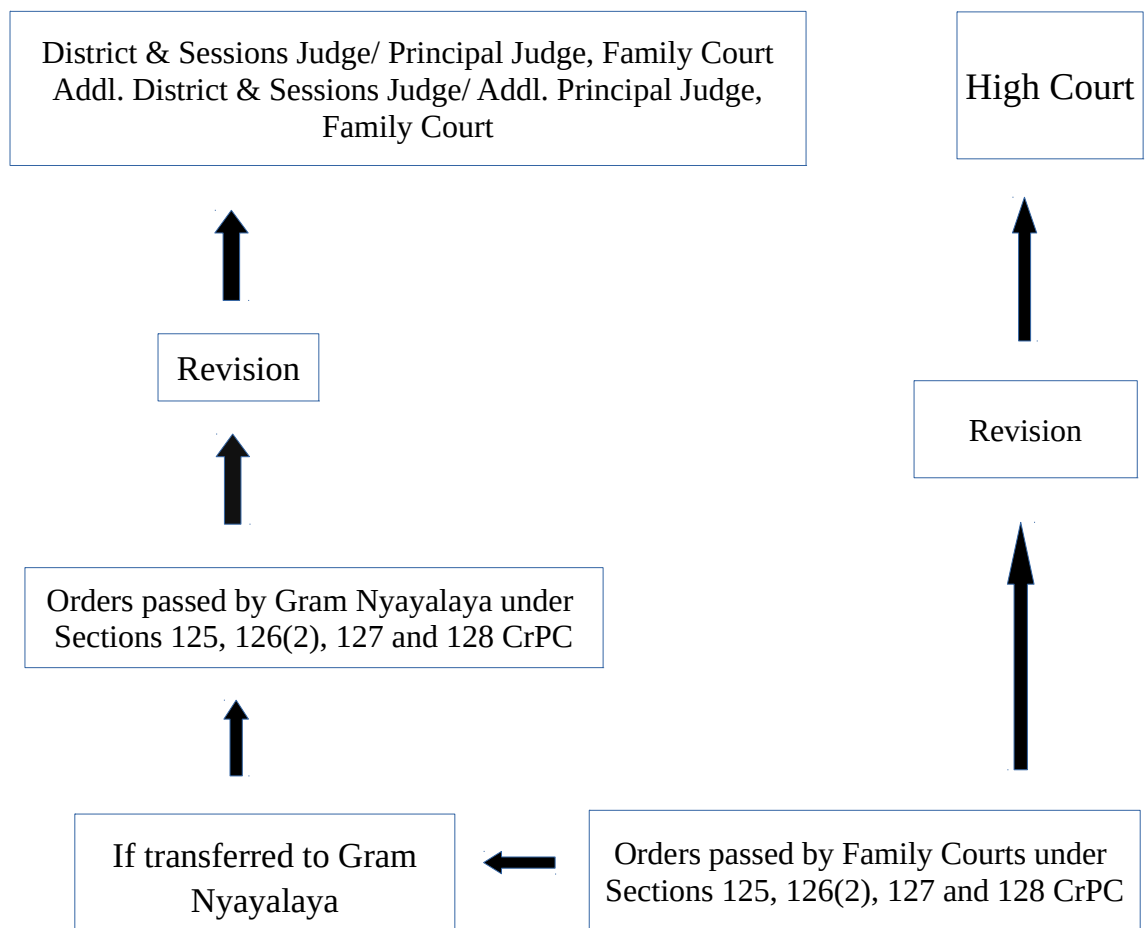
8. On the other hand, respondent No. 2 has moved an application No. 62 of 2024, under Section 128 of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023), seeking the execution of the order dated 6.3.2019 passed by the learned Principal Judge, Family Court, Bijnor. After hearing the parties, the learned Gram Nyayalaya passed the order dated 25.3.2025, thereby directing the petitioner to comply with the order dated 6.3.2019 passed by learned Family Court, by which a sum of Rs. 3,000/- was fixed as monthly maintenance and issued recovery warrant to the petitioner and hence, the instant petition under Article 227 of Constitution of India, before this Court against the order dated 1.10.2024 and 25.03.2025 passed by learned Gram Nyayalaya, Dhampur.

9. Besides deciding the case on merit, the petitioner has raised a legal issue that, even if the jurisdiction has been conferred upon the Gram Nyayalaya, then also Gram Nyayalaya was not competent to review/ uphold/ set aside/ modify or entertain any application or execution, against an order passed by learned Principal Judge/ learned Additional Principal Judge, Family Court i.e. an officer of Higher Judicial Service Cadre, whereas the Gram Nyayalaya is headed by an officer of the cadre of Civil Judge (Junior Division) and referred to the scheme of Family Courts Act 1984, wherein the Family Courts still continued to exercise the jurisdiction over Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023). Learned counsel submitted, that both the Family Court, as well as Gram Nyayalaya, as of now, exercises concurrent jurisdiction over Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023).

10. Learned counsel for the petitioner further submits that, as per the hierarchy of the Courts within the districts, the normal nomenclature is as under:-

Highest Judicial Officer being in district, District and Sessions Judge/ Principal Judge, Family Court; Additional District and Sessions Judge/ Additional Principal Judge, Family Court; Chief Judicial Magistrate, Civil Judge (Senior Division)/ Additional Civil Judge (Senior Division); Additional Chief Judicial Magistrate; Civil Judge (Junior Division)/ Additional Civil Judge (Junior Division); Judicial Magistrate, Gram Nyayalaya Adhikari.

Remedy of orders passed by the Gram Nyayalaya and Family Courts.



11. Learned counsel for the petitioner further submits that the Judicial Officers of the Districts, discharge their duties as per the jurisdiction assigned to them, either under common

law, such as Indian Penal Code, Civil Procedure Code or any other law, for the time being in force and the Gram Nyayalaya headed by an officer of the rank of Civil Judge (Junior Division) exercises jurisdiction under Gram Nyayalaya Act, 2008, on the subjects and other Acts, conferred upon, by the jurisdiction in this behalf.

12. Learned counsel for the petitioner further submits that the Family Courts Act, 1984, as constituted by the Uttar Pradesh State Government, vide Notification No.79/11/86-Jus., dated September 4, 1986, has conferred the jurisdiction upon Family Courts, initially exercised by a 1st-Class Magistrate and the Gram Nyayalaya Act, 2008 has conferred the jurisdiction upon the Gram Nyayalaya as per part II of first Schedule, thereby empowered the Gram Nyayalaya to exercise jurisdiction on the subjects and Sections under Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023). Learned counsel for the petitioner further submits that, as far the jurisdiction assigned to Family Courts, as per Family Court Act, 1984 is concerned, the Family Courts have been given jurisdiction to entertain and adjudicate upon the matters, with respect to Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) and further submits that, there is an overlapping, as far as jurisdiction under Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) as conferred upon Family Courts, as well as the Gram Nyayalaya Act, 2008. Hence, there is not only disparity, but the same leads to a situation, wherein an order passed by an officer of the cadre of Higher Judicial Service or to say Principal Judge, Family Court/ Additional Principal Judge, Family Court, then the same cannot be subjected to review/

recall or set aside by the Gram Nyayalaya, which has happened in the present case i.e to say, that in the beginning, an order was passed by learned Principal Judge, Family Court under Section 125 the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) and thereafter, the respondent in the present case, filed an application under Section 127 of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023), bearing No,375 of 2021, which was transferred for disposal to Gram Nyayalaya, Dhampur, Bijnor. Hence, learned Civil Judge (Junior Division)/ Presiding Officer, Gram Nyayalaya exercised jurisdiction over and above the order passed by learned Additional Principal Judge, Family Court, an officer of the Higher Judicial Service cadre, which has no parallel or does not enjoy any parity with respect to the Code of Criminal Procedure or the matters being adjudicated upon by the Family Courts. As on date, the Family Courts comprises the officer of Higher Judicial Service cadre only and there is nobody, who is an officer of the rank of Civil Judge (Junior Division)/ Judicial Magistrate or Civil Judge (Senior Division)/ Chief Judicial Magistrate, either attached or posted, within the scheme of Family Courts Act, 1984.

13. Learned counsel for the petitioner further submitted that, the legislature by conferring the concurrent jurisdiction i.e. one under Family Court Act, 1984 and another under Gram Nyayalaya Act, 2008, the former being exercised by the officers of the Higher Judicial Service cadre and the later being exercised by the officers of the Civil Judge (Junior Division) cadre, has led to disparity, and anomaly, within the cadre of the District Courts. Hence, the arrangement has not only created a fuss, but has also led to disparity, judicial

impropriety and overlapping in exercising jurisdiction, over one and the same subject i.e. Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) by two different judicial officers in the hierarchy and therefore, the subject matter of Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) ought not to have been included in Part II of the first Schedule of Gram Nyayalaya Act, 2008, as the same was fully operating under the scheme of Family Courts Act, 1984, prior to the passage of Gram Nyayalaya Act, 2008 and the system is still operating within the Family Courts, concurrently.

14. Learned counsel for the petitioner submitted that, at the time of framing of the Gram Nyayalaya Act, 2008, either the matter of adjudication by Family Courts in respect of Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) could not be brought to the notice of the concerned Committee, which formulated Gram Nyayalaya Act, 2008 or it skipped the attention of the lawmakers, that two different Courts of judicial officers from two different cadres, within the District have been assigned jurisdiction to adjudicate upon the same subject matter i.e. Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023). Consequently, within the local jurisdiction of District Courts, the Judicial Magistrate, Ist Class and Sessions Judge/ Addl. Sessions Judge/ Principal Judge, Family Court/ Addl. Principal Judge, Family Court are exercising powers on the one and same Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023).

15. Learned counsel for the petitioner further submits that, Section 7(2) and 8(b) of Family Courts Act, 1984 reads as follows:-

7. Jurisdiction.—

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.

8. Exclusion of jurisdiction and pending proceedings.—

Where a Family Court has been established for any area,—

(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

Therefore, on the one hand, the Family Courts excluded the jurisdiction to be exercised by a first class Magistrate, as far as Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) is concerned and prohibited the first class Magistrate to exercise jurisdiction over subject matter of Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) and on the other hand, part II of the first Schedule conferred jurisdiction upon a first class Magistrate to adjudicate upon subject matter of Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023), under the Gram Nyayalaya Act, 2008. Therefore, there is a disparity, dissimilarity and overlapping and anomaly in two

jurisdictions, on the same subject of Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) and therefore, any matter being decided or adjudicated by the Presiding Officer Gram Nyayalaya shall be in contravention of Section 8(b) of Family Courts Act, 1984. Hence the orders dated 25.3.2025 and 1.10.2024 are liable to be quashed and set aside.

16. Learned counsel for the petitioner further submits that Section 18, Chapter IV of Gram Nyayalayas Act, 2008 reads as under:-

***"18. Overriding effect of Act in criminal trial.—** The provisions of this Act shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a Court of Judicial Magistrate of the first class."*

From perusal of the aforesaid, Section 18 of the Gram Nyayalaya Act, 2008, it is evident **that, the Presiding Officer Gram Nyayalaya will not adjudicate upon any matter, if the same is inconsistent with the Act itself, for the time being in force.** In the present case, not only the order dated 1.10.2024 and 25.3.2025 have been passed by the Gram Nyayalaya, Dhampur, Bijnour, but also in contravention of Section 8 (b) of the Family Courts Act, 1984, the learned Gram Nyayalaya has exercised power and jurisdiction both, over and above an order, passed by Family Court, comprising a Judicial Officer of Higher Judicial Service cadre i.e. Sessions Judge/ Addl. Sessions Judge/ Principal Judge, Family Court/ Addl. Principal Judge, Family Court, and

hence, both the orders dated 1.10.2024 and 25.3.2025 are liable to be quashed and set aside.

17. Learned counsel for the petitioner further submits that, as far as Section 7(2)(a) and Section 8(b) of Family Courts Act, 1984 are concerned, they are separate and Section 7(2)(a) has itself given power to first class Magistrate to exercise jurisdiction over Chapter IX of Bharatiya Nagarik Suraksha Sanhita, 2023, however, the same is not the issue before this Court and if there is any anomaly within the framework of Family Courts Act, 1984, the same can be a separate subject matter of adjudication and cannot be dealt with here in this case, as the petitioner has confined his relief with respect to the orders passed by Gram Nyayalaya under Gram Nyayalaya Act, 2008.

18. On the other hand, learned counsel appearing on behalf of respondent No.2 submits that the order passed by learned Additional Principal Judge, Family Court, under Section 125 of the Code of Criminal Procedure, 1973 (corresponding Section 144 of Bhartiya Nagrik Suraksha Sanhita, 2023) awarding a sum of Rs. 3,000/- per month to respondent No.2 is in accordance with law. Learned counsel for respondent No.2 further submits that the jurisdiction conferred upon the Gram Nyayalaya has been done by a careful consideration by the legislature and the same cannot be questioned before these proceedings and further submits that order dated 1.10.2024 and 25.3.2025 have been passed in accordance with law.

19. Learned counsel for the respondent No.2 submits that every officer, say Additional Principal Judge, Family Court, has exercised the jurisdiction under Family Court Act, 1984, a separate statute, whereas the Gram Nyayalaya has

exercised the jurisdiction under a separate statute i.e. Gram Nyayalaya Act, 2008 and therefore, unless and until a particular Section or part of the Act is declared as redundant or overlapping, till then, every order passed by the Judicial Officer(s) under two different Acts separately, cannot be termed as illegal or arbitrary. Learned counsel for the respondent no.2 prays that the instant petition is liable to be dismissed, being devoid of merits.

20. Having considered the rival contentions and after having perused the relevant Sections of the Gram Nyayalaya Act, 2008 and the Family Courts Act, 1984, a further analysis is required with respect to the anomaly and overlapping of the jurisdiction between the two Acts i.e. Gram Nyayalaya Act, 2008 and the Family Courts Act, 1984.

Gram Nyayalaya Act, 2008	Family Courts Act, 1984
<p>11. Jurisdiction of Gram Nyayalaya.—</p> <p><i>Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act.</i></p>	<p>7. Jurisdiction.—</p> <p><i>(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—</i></p> <p><i>(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and</i></p> <p><i>(b) such other jurisdiction</i></p>

	<p><i>as may be conferred on it by any other enactment.</i></p>
<p>12. Criminal jurisdiction.— (1) <i>Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall—</i></p> <p><i>(a) try all offences specified in Part I of the First Schedule; and</i></p> <p><i>(b) try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.</i></p> <p><i>(2) Without prejudice to the provisions of sub-Section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-Section (3) of Section 14.</i></p>	<p>8. Exclusion of jurisdiction and pending proceedings.—<i>Where a Family Court has been established for any area,—</i></p> <p><i>(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);</i></p>
<p>14. Power to amend Schedules.— (1) <i>Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or omit any item in Part I or Part II of the First Schedule or Part II of the Second Schedule, as</i></p>	<p>20. Act to have overriding effect.—<i>The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having</i></p>

<p><i>the case may be, and it shall be deemed to have been amended accordingly.</i></p> <p>(2)</p> <p><i>(3) If the State Government is satisfied that it is necessary or expedient so to do, it may, in consultation with the High Court, by notification, add to any item in Part III of the First Schedule or Part III of the Second Schedule or omit from it any item in respect of which the State Legislature is competent to make laws and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.</i></p>	<p><i>effect by virtue of any law other than this Act.</i></p>
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21. Learned counsel for the petitioner submitted that, if a matter was to be transferred from Family Court to Gram Nyayalaya, then in that event, both the Courts would have been headed by the Judicial Officer of the same cadre, say Higher Judicial Services cadre or the Junior Division cadre, but there is disparity and inequality, between the two posts, hence, a Judicial Officer of the rank of Junior Division, who is much below the rank of Higher Judicial Services cadre, cannot review/ recall or adjudicate upon the order passed by the Family Court, having the rank of District Judge/ Principal Judge, Family Court. Learned counsel for the petitioner

further submitted that, if a case is transferred from Family court to Gram Nyayalaya and the Gram Nyayalaya, has dealt with such a case, then an appeal can always be filed before the District Judge/ Additional District Judge and consequently, an order passed by the Family Court, would further be a subject matter of appeal before the District Judge, Additional District Judge. Then the petitioner prayed that, once an order has been passed by the learned Family Court, deciding the rights between the parties, the said case cannot be transferred to the Gram Nyayalaya. However, there is no bar in fresh filing of cases before the Gram Nyayalaya.

22. A reference was also made to the Circular letter of High Court No. 14806/ Main-B/ G.N./ Admin. (A-3)/ Allahabad: Dated 16.12.2021, wherein the matter of jurisdiction has been dealt with in the said circular letter, conferring jurisdiction of Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) and clarified that, the Gram Nyayalaya Act, 2008 would have an overriding effect over the (conflicting) provisions of Family Courts Act, 1984, however, the same does not deal with the disparity to the extent of disposal of cases pertaining to maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) i.e. in one hand, a First Class Magistrate exercises such powers under the Gram Nyayalaya Act, 2008, on the other hand, the same power, to try cases for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) is being exercised by the officers of Higher Judicial Service cadre, i.e. Session Judge/ Additional Sessions Judge/ Additional District Judge, therefore, the disparity still continues and if an order with

respect to Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) is passed by Sessions Judge/ Additional Sessions Judge, in that event, the affected party from either side has lost a valuable remedy, which has not been provided under the Family Court Act, 1984, that an order passed by Gram Nyayalaya is appealable or revisable, as the case may be, before the Court of Sessions Judge/ Additional Sessions Judge. Hence, the disparity, which has been created by creation of Gram Nyayalaya under the Gram Nyayalaya Act, 2008, still continues and therefore, Section 18 of Gram Nyayalaya Act, 2008, is explicitly clear that, if the jurisdiction conferred upon Gram Nyayalaya with respect to Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) is inconsistent with the proviso of this Act, the same can be rectified. Hence, Section 18 of Gram Nyayalaya Act and Section 20 of Family Courts Act, 1984 are overlapping with each other, as far as jurisdiction of Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) is concerned, and the subject of maintenance of wives, children and parents is more akin and related to scheme of Family Courts and should continue to remain within the framework of the Family Courts, therefore, conferring jurisdiction upon Gram Nyayalaya, becomes redundant. The said circular letter of the High Court dated 16.12.2021 is read as under:-

“From;

Ashish Garg, H.J.S.

Registrar General

High Court of Judicature at

Allahabad.

To

The District Judge,

Budaun & Sitapur.

No. 14806 /Main-B/G.N./Admin. (A-3)/ Allahabad: Dated: 16-12-2021.

Subject:- Regarding provisions mentioned in the Family Court Act, 1984 and Gram Nyayalaya Act, 2008 related to trial of cases u/s 125 of Cr.P.C.

Sir,

I have been directed to say that upon consideration of letter no. 2513/XV, dated 21.09.2020 of the District Judge, Budaun and representation dated 12.08.2021 of the General Secretary of Association, Sitapur (copy enclosed for ready reference), the Hon'ble Court has been pleased to communicate the following on the above-noted subject:-

- "i). The Gram Nyayalayas Act, 2008 has been enacted for a special purpose and intention, and with a more laudable objective- "of providing access to justice to the citizens at their doorsteps" and to ensure that opportunities for securing justice to any citizen are not denied due to social, economic or other disabilities.*
- ii). The Gram Nyayalayas Act, 2008 is a later enactment than the Family Courts Act, 1984.*
- iii). Section 3 (3) of the Gram Nyayalayas Act, 2008 provides for establishment of Gram Nyayalayas in addition to other courts already functioning within the district under any other law for the time being in force, thereby indicating the intention of the legislature to include the Gram Nyayalayas in the hierarchy of Courts.*

(the provisions of Gram Nyayalaya Act, 2008 would have an over-riding effect over the (conflicting) provisions of the Family Courts Act and the Gram Nyayalaya, Tehsil-Bilsa, District Budaun would have the exclusive jurisdiction to try cases for maintenance of wives, Children and parent under Chapter-IX of the Code of Criminal Procedure, 1973 (2 of 1974)."

This is for your kind information and further necessary action.

With regards,

Encl: As above.

Your Sincerely,

Sd/-

Registrar General"

23. The argument raised on behalf of learned counsel appearing on behalf of respondent No.2 that, even if a matter is transferred from Family Court to Gram Nyayalaya for appropriate disposal, then the same falls within the jurisdiction of Gram Nyayalaya, as conferred in Part II of the First Schedule and therefore, the Gram Nyayalaya will have

the power to review/ decide, dispose any matter as far Sections 126(2), 127 and 128 of the Code of Criminal Procedure, 1973 (Corresponding Sections 145(2), 146 and 147 of Bhartiya Nagrik Suraksha Sanhita, 2023), even if passed by Sessions Judge/ Additional Sessions Judge i.e. officer of Higher Judicial Service cadre and therefore, the impugned orders dated 25.3.2025 and 1.10.2024 have been passed in accordance with law and by way of jurisdiction conferred upon Gram Nyayalaya Act, 2008 with respect to Chapter IX of the Code of Criminal Procedure, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023). The said arguments do not carry any weight, for the reason of disparity and overlapping of the jurisdiction.

24. Under such circumstances and from the above discussion, it can fairly be concluded that:-

(i) the impugned orders dated 25.3.2025 and 1.10.2024 passed by learned Judicial Officer, Gram Nyayalaya Dhampur, District Bijnor are liable to be quashed and set aside, the same being inconsistent with the Family Court Act, hence, the aforesaid orders dated 1.10.2024 and 25.3.2025 are quashed and set aside. However, it shall remain open to either of the parties to take up the matter within the framework of Family Court scheme, availing any remedy, provided under law. As far as order dated 6.3.2019 is concerned, the same shall remain in force and till the date, the respondent No.2 got re-married.

(ii) The cases filed before the Family Courts can be transferred to the Gram Nyayalaya, to the extent and with a rider that, all such cases, where no such order, deciding the rights of the parties, has been

passed, (say grant of interim maintenance), and the same order is not revisable or appealable before the Higher Court.

(iii) It is further held that, the cases pending before the Family Courts to be decided under Sections 126(2), 127 and 128 of the Code of Criminal Procedure, 1973 (Corresponding Sections 145(2), 146 and 147 of Bhartiya Nagrik Suraksha Sanhita, 2023) cannot be transferred to Gram Nyayalaya.

25. With the aforesaid observations/ directions, the instant petition stands **disposed of**.

April 10, 2026

Gurpreet Singh

(Harvir Singh,J.)