



2026:AHC:54537

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1116 of 2025

Sarfaraj

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s) : Jai Raj

Counsel for Opposite Party(s) : G.A., Richa Shukla, Vinod Chandra
Yadav

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Jai Raj, learned counsel for the revisionist; Sri Vinod Chandra Yadav, learned counsel for opposite party no. 2; and the learned A.G.A. for the State. The record has also been perused.

2. This criminal revision has been filed by the revisionist seeking to set aside the order dated 24.01.2025 passed by the learned Principal Judge, Family Court, Agra in Maintenance Case No. 617 of 2019 under Section 125 Cr.P.C., whereby the revisionist has been directed to pay Rs. 7,000/- per month to opposite party no. 2 and Rs. 4,000/- per month to opposite party no. 3 as maintenance.

3. The sole argument advanced by the learned counsel for the revisionist is that the revisionist is working as a labourer in a shop owned by his brother and earns only Rs. 8,000/- to Rs. 9,000/- per month. It is further submitted that the revisionist has no regular source of income and has other liabilities to discharge. It is also contended that the amount awarded by the learned trial court is not commensurate with the income of the revisionist and is in violation of the law laid down by the Hon'ble Supreme Court in *Rajnesh vs. Neha and Another*, (2021) 2 SCC 324; *Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy*, AIR 2017 SC 2383; and *Kulbhushan Kumar vs. Raj Kumari*, (1970) 3 SCC 129.

4. Learned counsel for opposite party no. 2, as well as the learned A.G.A., opposed the prayer and contended that, considering the present inflation, the amount awarded by the learned trial court cannot be said to be excessive or beyond the capacity of the revisionist. It was further submitted that the revision lacks merit and is liable to be dismissed.

5. Considering the facts and circumstances of the case, the submissions of learned counsel for the parties, and the record of the case, including the impugned order, it is an admitted fact that opposite party no. 2 is the legally wedded wife of the revisionist. So far as the income of the revisionist is

concerned, it is admitted that the shop of his father is in possession of his elder brother and the revisionist is working there as an assistant. Since there is no documentary evidence regarding his exact income, this Court is constrained to make a reasonable assessment of his income. In the absence of reliable proof, his income is assessed at Rs.1,000/- per day which comes to Rs. 30,000/- per month from all sources. Keeping in view the law laid down by the Hon'ble Supreme Court in the aforesaid cases, it has been observed that maintenance may be granted up to the extent of 25% of the husband's net income. Accordingly, 25% of Rs. 30,000/- comes to Rs. 7,500/- per month.

6. In view of the above, this Court is of the opinion that the total maintenance amount of Rs. 11,000/- per month (Rs. 7,000/- to opposite party no. 2 and Rs. 4,000/- to opposite party no. 3) is not commensurate with the income of the revisionist. It is true that it is the legal obligation of a husband to maintain his wife and child; however, the amount of maintenance must be reasonable and proportionate to his income. Therefore, the maintenance awarded by the court below appears to be excessive and deserves to be modified. Accordingly, it is reduced from Rs. 11,000/- per month to Rs. 7,500/- per month (Rs. 4,000/- to opposite party no. 2 and Rs. 3,500/- to opposite party no. 3), payable from the date of the application.

7. Accordingly, the present criminal revision is *partly allowed*. The amount of maintenance is reduced to Rs. 7,500/- per month, payable from the date of the application.

8. It is made clear that the amount of maintenance shall be calculated in terms of the present order. If the revisionist has already paid any amount towards maintenance, the same shall be duly adjusted. In case any arrears remain unpaid, the revisionist shall clear the same in twenty equal monthly instalments. The first instalment shall be paid on or before 10th April, 2026, and the remaining instalments shall be paid on or before the 15th day of each succeeding calendar month.

(Madan Pal Singh,J.)

March 17, 2026

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