



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 194 of 2026

Rajeev Shishodiya

.....Revisionist(s)

Versus

State of U.P. and 2 others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Avinash Chandra Srivastava, Subham Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 86

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Sri Avinash Chandra Srivastava, learned counsel for the revisionist and Sri Shashidhar Pandey, learned A.G.A. for the State.
2. Learned counsel for the revisionist submits that the instant criminal revision has been preferred with the relief which has been mentioned in the prayer clause. The relief mentioned in the prayer clause of the revision is delineated below:-

"It is, therefore most respectfully prayed that this Hon'ble court may graciously be pleased to set aside the judgment and order dated 07.11.2025 passed by Additional Principal Judge Family Court No. 3 Bulandshahar in Misc. Case No.09 of 2009 (Smt. Seema Tomar and another Vs. Rajeev Sisodiya) Filed under section 125 Cr.P.C. by which the revisionist has been directed to pay Rs. 60,000/- as maintenance.

And it is further prayed that this Hon'ble Court may kindly be pleased to stay the operation of the judgment and order dated 7.11.2025 passed by Additional Principal Judge Family Court No. 03 Bulandshahar in Misc. Case No. 09 of 2009 (Smt. Seema Tomar and another Vs. Rajeev Sisodiya) Filed under section 125 Cr.P.C. by which the revisionist has been directed to pay Rs. 60,000/-as maintenance during the pendency of he present criminal revision otherwise the revisionist will suffer an irreparable loss and injury."

3. Learned counsel for the revisionist submits that opposite party no.2 (Smt. Seema Tomar) is wife of the revisionist and she is working in

a private institution and getting salary, therefore, application under Section 125 Cr.P.C. filed by opposite party no.2 has been rejected while amount of maintenance has been granted to son/opposite party no.3 namely, Aditya Kumar Singh in following manner :

- (i) Rs.15,000/- per month from the date of application i.e. 05.02.2009 upto December, 2013
- (ii) Rs.30,000/- per month from January, 2014 to December, 2018
- (iii) Rs.45,000/- per month from January, 2019 to December, 2023
- (iv) Rs.60,000/- per month from January, 2024 till marriage of opposite party no.3 or until he becomes capable of earning income.

4. Learned counsel for the revisionist further submits that date of birth of opposite party no.3 i.e. son of the revisionist is 02.06.2004 and the same has been mentioned at internal page 3 of the impugned order dated 07.11.2025. He further submits that at the time of passing the impugned order, opposite party no.3 was major aged about more than 21 years, as he has already attained the age of majority i.e. 18 years on 02.06.2022. He further submits that as per Section 125 (1)(c) Cr.P.C., only a legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, is entitled to get maintenance. He further submits that the term 'minor' has been defined in Clause (a) of the Explanation to Third Proviso of Section 125 Cr.P.C.

5. For ready reference, Section 125 Cr.P.C. is being delineated below :-

"Section 125. Order for maintenance of wives, children and parents. (1) If any person having sufficient means neglects or refuses to maintain--

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate

thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.--For the purposes of this Chapter,

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each months 4[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.--If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to

live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.”

(emphasis supplied)

6. Learned counsel for the revisionist further draws attention of this Court towards Section 3 of the Indian Majority Act, 1875, wherein it has been specifically provided that every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before and for computing the age of any person, the day on which he was born is to be included as a whole day and he shall be deemed to have attained majority at the beginning of the eighteenth anniversary of that day. Section 3 of the Indian Majority Act, 1875 is being quoted below for ready reference :-

“3. Age of majority of persons domiciled in India. —(1) *Every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before.*

(2) In computing the age of any person, the day on which he was born is to be included as a whole day and he shall be deemed to have attained majority at the beginning of the eighteenth anniversary of that day.”

7. Learned counsel for the revisionist further submits that as per the judgment of Hon'ble Supreme Court in **Noor Saba Khatoon vs. Mohd. Quasim; AIR 1997 SC 3280**, even a daughter who has attained the age of majority, if she is unmarried and unable to maintain herself, can claim maintenance from her parents. The relevant portion of the said judgment is quoted below:

"By Muslim law maintenance (nafaqa) is a birth right of children and an absolute liability of the father.

Daughters are entitled to maintenance till they get married if they are bakira (maiden), or till they get remarried if they are thaviba (divorce/widow). Sons are entitled to till they attain bulugh if they are normal; and as long as necessary if they are handicapped or indigent. providing maintenance to daughters is a great religious virtue. The Prophet had said:

"Whoever has daughters and spends all that he has on their upbringing well, on the Day of Judgment, be as close to me as two fingers of a hand."

Thus, our answer to the question posed in the earlier part of the opinion is that the children of muslim parents are entitled to claim maintenance under Section 125 Cr. P. C. for the period till they attain majority or are able to maintain themselves, whichever is earlier and in case of females, till they get married, and this right is not restricted, affected or controlled by divorcee wife's right to claim maintenance for maintaining the infant child/children in her custody for a period of two years from the date of birth of the child concerned under Section 3(1)(b) of the 1986 Act. In other words Section 3(1)(b) of the 1986 Act does

not in any way affect the rights of the minor children of divorced muslim parents to claim maintenance from their father under Section 125 Cr. P. C. till they attain majority or are able to maintain themselves, or in the case of females, till they are married.

The arrears of maintenance in respect of the children shall be paid by the respondent to the appellant-mother, who filed the petition on their behalf, within one year from the date of this order in four equal instalments, payable quarterly. The first instalment shall be paid on or before August 15, 1997 and thereafter every three months. Any single default in the payment of the arrears will entitle the appellant to recover the entire balance amount at once with 12% interest through the Trial Court in the manner prescribed by the Code. The respondent shall continue to pay maintenance as directed by the trial court, till the children attain minority or are able to maintain themselves and in the case of the daughters, till they get married."

8. Learned counsel for the revisionist further submits that later on in another judgment of **Abhilasha vs. Prakash; AIR 2020 SC 4355**, the Hon'ble Supreme Court has held that irrespective of religion, a daughter who is unmarried and unable to maintain herself, even after attaining majority, is entitled to claim maintenance from her parents till her marriage. The relevant paragraphs of the said judgment are delineated below for ready reference:

"26. Muslim Law also recognises the obligation of father to maintain his daughters until they are married. Referring to Mulla's Principle of Mohammedan Law, this Court in State of Haryana and Others Vs. Santra (Smt.), (2000) 5 SCC 182 in paragraph 40 held:-

"40. Similarly, under the Mohammedan Law, a father is bound to maintain his sons until they have attained the age of puberty. He is also bound to maintain his daughters until they are married. [See: Mulla's Principles of Mohammedan Law (19th Edn.) page 300]....."

27. Section 20(3) of Hindu Adoptions and Maintenance Act, 1956 is nothing but recognition of principles of Hindu Law regarding maintenance of children and aged parents. Section 20(3) now. makes it statutory obligation of a Hindu to maintain his or her daughter, who is unmarried and is unable to maintain herself out of her own earnings or other property.

38. We, thus, accept the submission of the learned counsel for the appellant that as a proposition of law, an unmarried Hindu daughter can claim maintenance from her father till she is married relying on Section 20(3) of the Act, 1956, provided she pleads and proves that she is unable to maintain herself, for enforcement of which right her application/suit has to be under Section 20 of Act, 1956."

9. In the aforesaid backdrop, learned counsel for the revisionist submits that in maintenance cases regarding granting maintenance to female child/unmarried daughter, it has been held by Hon'ble

Supreme Court that a female child can get maintenance until she is married or is unable to maintain herself, but so far as maintenance in respect of male child, who has attained the age of majority and is not mentally or physically disabled, is concerned, there is no such provision by any court of law. He further submits that the impugned order dated 07.11.2025 passed by the Additional Principal Judge, Family Court No.3, Bulandshahar is against the existing provisions of law, as opposite party no.3 has attained the age of majority on 02.06.2022 and on the date of impugned order, he has completed more than 21 years, as such, direction to the revisionist for payment of maintenance amount to opposite party no.3, till his marriage or until he becomes capable of earning income, is bad in the eyes of law and the impugned order is liable to be set aside or the same may be stayed during the pendency of this revision.

10. This Court finds it pertinent to paste the operative portion of the order dated 07.11.2025 below :-

आदेश

1. प्रार्थिका संख्या-1 श्रीमती सीमा तोमर की वावत भरण पोषण प्रार्थनापत्र 3ए अन्तर्गत धारा-125 द0प्र0सं0 विपक्षी राजीव शिशोदिया के विरुद्ध निरस्त किया जाता है तथा प्रार्थी संख्या-2 आदित्य कुमार शिशोदिया की वावत प्रार्थनापत्र 3ए स्वीकार किया जाता है।

2. विपक्षी को आदेशित किया जाता है कि वह प्रार्थी संख्या-2 को प्रार्थनापत्र प्रस्तुत करने की दिनांक 05.02.2009 से दिसम्बर 2013 तक अंकन 15,000/-रूपये प्रतिमाह, जनवरी 2014 से दिसम्बर 2018 तक 30,000/-रूपये

अपर प्रधान न्यायाधीश,

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CNR NO.UPBU020000442009
भरण पोषण वाद संख्या- 09/2009

प्रतिमाह, जनवरी 2019 से दिसम्बर 2023 तक 45,000/-रूपये प्रतिमाह तथा जनवरी 2024 से प्रतिमाह लगातार प्रार्थी संख्या-2 के विवाह होने तक अथवा आय अर्जित करने में सक्षम होने तक अंकन 60,000/-रूपये लगातार अदा करेगा।

3. भरण-पोषण की उक्त धनराशि प्रत्येक माह के प्रथम सप्ताह में देय होगी। विपक्षी याचिका प्रस्तुत करने की तिथि से निर्णय की तिथि तक के बकाया भरण-पोषण की समुस्त धनराशि समान छः किस्तों में (प्रत्येक दो माह में) एक वर्ष के अन्दर अदा करेगा।

04. प्रार्थी संख्या-2 को विपक्षी से इस वाद के दौरान मिली अन्तरिम भरण पोषण धनराशि (यदि कोई हो तो) व अन्य किसी भी विधि के अन्तर्गत प्राप्त हो रही भरण-पोषण की अन्तरिम अथवा अन्य धनराशि को उक्त वाद के भरण पोषण की धनराशि में समायोजित की जावेगी।

05. स्पष्ट किया जाता है कि प्रस्तुत प्रकरण में अवधारीय बिन्दु में दिये गये निष्कर्ष का प्रभाव पक्षकारों के मध्य लम्बित किसी अन्य आपराधिक अथवा दीवानी कार्यवाही पर नहीं होगा।

(नीतू सादर) 07.11.2025
अपर प्रधान न्यायाधीश, परिवार न्यायालय,
न्याय कक्ष संख्या-3, बुलन्दशहर
जे०ओ० कोड- 06381

दिनांक-07.11.2025

11. Looking to the facts and circumstances of the case as mentioned in the order dated 07.11.2025 and considering the provisions of law in maintenance cases as well as arguments advanced by learned counsel for the revisionist, Ms. Neetu Yadav, Additional Principal Judge, Family Court, Court Room No.3, Bulandshahr, J.O. Code-06381 is directed to submit an explanation before this Court through Registrar (Compliance) within 15 days from today as to under what circumstances and which provisions of law, the impugned order dated 07.11.2025 has been passed directing the revisionist to pay maintenance of Rs.60,000/- per month to his major son/opposite party no.3, till his marriage or until he becomes capable of earning income.

12. Issue notice to opposite party nos.2 and 3 for filing counter affidavit within a period of 15 days.

13. List this case on 04.08.2026 amongst top ten cases.

14. Sri Shashidhar Pandey, learned A.G.A. is directed to communicate a copy of this order to the concerned police station for service of notice upon opposite party nos.2 and 3.

15. The Registrar (Compliance) is directed to communicate a copy of this order forthwith to Ms. Neetu Yadav, Additional Principal Judge, Family Court, Court Room No.3, Bulandshahr, J.O. Code-06381 for its necessary compliance on or before the next date. He shall also send a copy of this order to the Chief Judicial Magistrate, Bulandshahr for service of notice upon opposite party nos.2 and 3.

(Praveen Kumar Giri,J.)

July 21, 2026

Manish Himwan