



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>CRLR/100/2022</u> Rapti --Revisionist Versus State Of Uttarakhand --Respondent <u>Hon'ble Alok Mahra, J.</u> Mr. Akshay Pradhan, Advocate for the revisionists. Mr. J.P. Kandpal, Brief Holder for the State of Uttarakhand. Mrs. Prabha Naithani, Advocate for the respondent no.2. 2. The present Criminal Revision has been preferred by the revisionists, assailing the judgment and order dated 24.01.2022 passed by learned Judge, Family Court, Haridwar in Original Suit No.77 of 2018, whereby the application preferred by the revisionist nos.1 & 3 under Section 125 of the Code of Criminal Procedure, 1973, seeking maintenance, has been partly allowed and maintenance at the rate of ₹8,000/- per month has been awarded in favour of revisionist no.1 (wife) and ₹6,000/- per month in favour of revisionist no.3 (minor daughter). However, the claim of revisionist no.2 (son) under Section 125 Cr.P.C. has been rejected on the ground that respondent no.2 is not his biological father. 3. Learned counsel for the revisionists submits that learned Judge, Family Court has failed to take into consideration the actual income of respondent no.2 while determining the amount of maintenance. It is contended that, at the time of solemnization of marriage between revisionist no.1 and respondent no.2 in the year 2013, respondent no.2 was fully aware that revisionist no.1 had a son, namely, revisionist no.2, from her previous marriage. It is submitted



			that, with full knowledge of the aforesaid fact, respondent no.2 agreed to marry revisionist no.1 and also accepted revisionist no.2 as a member of the family. Therefore, having voluntarily undertaken the responsibility of maintaining the family, respondent no.2 cannot, at this stage, seek to avoid his responsibility towards revisionist no.2 merely on the ground that he is not his biological father. It is, thus, contended that learned Judge, Family Court has erred in declining maintenance to revisionist no.2. 4. Learned counsel for the revisionists has further drawn the attention of this Court to the salary slip of respondent no.2 for the month of November, 2025, wherein his gross salary is shown as ₹2,01,843/-, whereas his net salary, after deductions, is shown as ₹1,06,654/-. It is submitted that only legitimate and permissible deductions could be taken into consideration for determining the actual income of respondent no.2 and, upon excluding such deductions as are not required to be taken into account, his effective monthly income would be more than ₹1,50,000/-. It is, therefore, submitted that the maintenance awarded by learned Judge, Family Court is wholly inadequate and deserves to be enhanced. 5. Per contra, learned counsel for respondent no.2 submits that revisionist no.1 is herself employed and is earning approximately ₹55,000/- to ₹58,000/- per month. It is contended that she has sufficient independent income to maintain herself as well as the children. It is further submitted that revisionist no.1 is residing in a flat owned by respondent no.2 and that she has, of her own volition, withdrawn from the company of respondent no.2. Learned counsel further submits that the responsibility of maintaining revisionist no.3, being the minor daughter, rests upon both the parents and, therefore, the entire burden cannot be fastened upon respondent no.2. 6. Heard learned counsel for the parties and perused the record. It is not in dispute that, at the time of solemnization of marriage between revisionist no.1 and respondent no.2 in the year 2013, respondent no.2 was fully aware that revisionist no.1 had a son, namely, revisionist no.2, from her previous marriage. It is also borne out from the record that the marriage was
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			solemnized with the aforesaid knowledge and understanding that revisionist no.2 would reside with revisionist no.1. In such circumstances, once respondent no.2, with full knowledge of the existence of revisionist no.2, chose to marry revisionist no.1 and accepted the child as part of the matrimonial household, he cannot subsequently seek to evade the responsibility which he had voluntarily undertaken towards the child, particularly when the child was residing with the parties as a member of the family. The subsequent plea that revisionist no.2 is not his biological son, by itself, cannot constitute a justification for completely disowning the responsibility towards his maintenance. Learned Judge, Family Court, therefore, erred in declining maintenance to revisionist no.2 solely on the ground that respondent no.2 is not his biological father. 7. Learned counsel for respondent no.2 has further submitted that, when revisionist no.1 obtained divorce from her earlier husband under Section 13-B of the Hindu Marriage Act, 1955, an amount of ₹5,00,000/- was received pursuant to the settlement towards her <i>stridhan</i> and the maintenance of revisionist no.2 and, therefore, revisionist no.1 was not entitled to claim any further maintenance from respondent no.2. Learned counsel, however, fairly submits that respondent no.2 is ready and willing to discharge his lawful obligation to maintain revisionist no.2 and is prepared to pay maintenance for her upkeep and welfare. 8. The submission, in the facts and circumstances of the present case, does not merit acceptance. The settlement, if any, between revisionist no.1 and her former husband cannot, by itself, absolve respondent no.2 of the responsibility which he voluntarily assumed after entering into marriage with revisionist no.1 with full knowledge that she had a son from her previous marriage. The rights and obligations arising from the subsequent matrimonial relationship cannot be defeated merely on the basis of an arrangement entered into between revisionist no.1 and her former husband. 9. Hon'ble Supreme Court in the case of Deepa Joshi Vs. Gaurav Joshi, reported in 2026 SCC OnLine SC 597, has reiterated that the
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		obligation of a husband to maintain his spouse is a primary and continuing obligation, which must be discharged in a manner ensuring that the wife is able to live with dignity and in a standard of living reasonably commensurate with that enjoyed by her during the subsistence of the marriage. It has further been held that, while determining the husband's actual earning capacity for the purpose of assessing maintenance, deductions towards repayments or liabilities which result in the creation or enhancement of assets cannot be permitted to substantially diminish his assessable income, as such repayments cannot take precedence over his statutory obligation to maintain his spouse. 10. In the present case, respondent no.2 was admittedly aware that revisionist no.2 was not his biological son assumes significance. Despite such knowledge, respondent no.2 chose to solemnize marriage with revisionist no.1 and permitted revisionist no.2 to reside with them as a member of the family. Having consciously accepted the matrimonial relationship with full knowledge of the existing circumstances, respondent no.2 cannot now seek to resile from the responsibility towards the maintenance of revisionist no.2 solely by relying upon the absence of a biological relationship. 11. This Court has also taken into consideration the affidavits relating to assets, income and liabilities filed by both sides pursuant to the directions issued by Hon'ble Supreme Court in Rajnesh Vs. Neha and another, reported in (2021) 2 SCC 324. A perusal of the said affidavits indicates that respondent no.2 has no substantial independent liability which would materially affect his capacity to pay maintenance. The income disclosed by respondent no.2, coupled with the material available on record, indicates that the amount of maintenance awarded by learned Judge, Family Court in favour of revisionist nos.1 and 3 is on the lower side. At the same time, considering the financial position and independent income of revisionist no.1, the respective needs of the parties, the income of respondent no.2 and the circumstances brought on record, this Court considers it just and appropriate to suitably enhance the amount of maintenance and to grant maintenance to
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revisionist no.2 as well.

12. Accordingly, the Criminal Revision is allowed and the impugned order dated 24.01.2022 passed by learned Judge, Family Court is modified to the extent that the maintenance payable to revisionist no.1 (wife) is enhanced from ₹8,000/- to ₹10,000/- per month and the maintenance payable to revisionist no.3 (minor daughter) is enhanced from ₹6,000/- to ₹30,000/- per month, as learned counsel for respondent no.2 has submitted that respondent no.2 is ready to maintain revisionist no.3. Further, considering that the date of birth of revisionist no.2 (son) is 23.11.2007, he shall also be entitled to maintenance at the rate of ₹10,000/- per month from the date of filing of the application till he attains the age of majority.

(Alok Mahra, J.)

20.08.2026

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