



2026:AHC:219777

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1465 of 2026

A F R

Pinki Verma And Another

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Diwas Verma
Counsel for Opposite Party(s)	:	Bhole Ram, G.A.

Court No. - 83

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Sri Diwas Verma, learned counsel for the revisionists, Sri Bhole Ram, learned counsel for opposite party no.2 and Sri Pankaj Kumar, learned A.G.A. for the State.

2. Learned counsel for the revisionists 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 allow this revision and set aside the impugned judgment and order dated 22.12.2025 passed by learned Principal Judge, Family Court, Kanpur Nagar in case no. 149 of 2021 u/s 125 Cr.P.C. (Smt. Pinky Verma Vs. Saurabh @ Brij) to the extent whereby the learned court below has only awarded monthly allowance at the rate of Rs 19000/-per month instead of awarding monthly allowance at the rate of Rs. 40000/- per month as claimed by the revisionist-wife against the husband- opposite party no. 2 and consequently this Hon'ble court may be pleased to direct: -

a) That the maintenance to the tune of Rs 40000/- per month be paid to the revisionist wife and her minor child by the opposite party no.2 (husband)

b) That the cost of litigation as may be quantified by this Hon'ble court

may be paid to the revisionist-wife

Otherwise the revisionist shall suffer irreparable loss and injury.

And/or to pass such other and further order, which this Hon'ble Court may deem fit and proper under circumstances of the case."

3. Learned counsel for the revisionists submits that opposite party no.2 is working as Window Operator in Indian Bank, District Unnao. He further submits that the maintenance amount granted vide impugned order dated 22.12.2025 is not in consonance with the law laid down by the Hon'ble Supreme Court in **Dr. Kulbhushan Kumar Vs. Raj Kumari, 1970 (3) SCC 129** and **Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy, AIR 2017 SC 2383: (2017) 14 SCC 200**, wherein the Hon'ble Court has observed that 25% of the husband's salary would be just and proper towards maintenance. The relevant paragraph of the judgment passed in **Dr. Kulbhushan Kumar (supra)** is delineated below :-

*"15. The review petition under Order 47 Rule 1 CPC came to be filed by the respondent wife pursuant to the liberty granted by this Court when the earlier order dated 2-2-2015 [Rita Dey Chaudhury v. Kalyan Dey Chowdhury, 2015 SCC OnLine Cal 10447] awarding a maintenance of Rs 16,000 to the respondent wife as well as to her minor son was under challenge before this Court. As pointed out by the High Court, in February 2015, the appellant husband was getting a net salary of Rs 63,842 after deduction of Rs 24,000 on account of GPF and Rs 12,000 towards income tax. In February 2016, the net salary of the appellant is stated to be Rs 95,527. Following **Kulbhushan Kumar v. Raj Kumari [Kulbhushan Kumar v. Raj Kumari, (1970) 3 SCC 129]**, in this case, it was held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent wife. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the capacity of the spouse to pay maintenance. Maintenance is always dependent on the factual situation of the case and the court would be justified in moulding the claim for maintenance passed on various factors. Since in February 2016, the net salary of the husband was Rs 95,000 per month, the High Court was justified in enhancing the maintenance amount. However, since the appellant has also got married*

second time and has a child from the second marriage, in the interest of justice, we think it proper to reduce the amount of maintenance of Rs 23,000 to Rs 20,000 per month as maintenance to the respondent wife and son." (emphasis supplied)

4. Learned counsel for the revisionists further submits that deductions for voluntary financial commitments, such as loan repayment, cannot dilute the husband's primary obligation to maintain his spouse, therefore, the gross salary of opposite party no.2 excluding deduction towards income tax only, has to be treated as his income and out of that very income, 25% may be granted to the revisionists as maintenance amount. To buttress his submission, he has placed reliance on a judgment passed by the Hon'ble Supreme Court in the case of **Deepa Joshi vs. Gaurav Joshi, 2026 AIR Supreme Court 2013**. The relevant paragraph nos.15 and 16 of the judgment of Hon'ble Supreme Court passed in **Deepa Joshi's case (supra)** are delineated below:-

"15. Insofar as the financial capacity of the respondent is concerned, it is borne out from the compliance affidavit filed pursuant to the order dated 06.02.2026 that the respondent is employed as a Manager with Canara Bank and is drawing a gross monthly income of Rs. 1,15,670/-. The Courts below have taken note of certain deductions from the said income, including repayments towards loans. However, it is well settled that repayments of loans, particularly where such repayments result in creation or acquisition of assets, partake the character of capital investment and cannot be equated with essential or unavoidable expenditure. Such financial commitments, being voluntary in nature, cannot be accorded precedence over the statutory and legally enforceable obligation of maintenance.

16. The obligation of the husband to maintain his spouse is a primary and continuing duty, which must be discharged in a manner that enables the wife to live with dignity and in a standard commensurate with that enjoyed during the subsistence of the marriage. Viewed thus, deductions on account of asset-generating repayments cannot be permitted to substantially dilute the respondent's real earning capacity for the purpose of determining maintenance. We are of the opinion that a sum of Rs. 25,000/- per month would be just, fair and reasonable in the facts of the

present case."

(emphasis supplied)

5. In the aforesaid backdrop, learned counsel for the revisionists submits that the amount of maintenance, which has been granted by the trial court vide impugned order dated 22.12.2025, is not commensurate with the source of income of opposite party no.2. He further prays that this Court may issue direction to the concerned trial court for passing an order by which the higher authority of the Indian Bank/employer of opposite party no.2 may be directed to deduct 25% of his salary, after excluding the amount deducted towards income tax, as maintenance amount from his salary account and for crediting the same to the verified bank account of revisionist no.1/wife.

6. The learned counsel for opposite party no.2 submits that there is no chance of opposite party no.2 having his wife and minor daughter with him and the opposite party no.2 is ready for deduction of 25% of his salary towards maintenance amount to his wife/revisionist no.1 and minor daughter/revisionist no.2.

7. This Court observes that not only legal but a pious obligation is upon the husband to maintain his chaste wife, minor children and parents, if they are financially unable to maintain themselves. The same has also been observed in paragraph 10 of judgment of the Hon'ble Supreme Court in the case of **Anju Garg and another vs. Deepak Kumar Garg, 2022 INSC 1033 : 2022 SCC OnLine SC 1314**, Section 125 Cr.P.C./144 BNSS as well as in **Chapter XI Verse 10 (Ekadasha Adhyaya Shlok 10) of the Manusmriti**. For ready reference, Paragraph 10 of judgment passed by the Hon'ble Supreme Court in **Anju Garg's case (supra)**, Section 125 Cr.P.C. (corresponding to Section 144 BNSS) as well as Chapter XI Verse 10 (Ekadasha Adhyaya Shlok 10) of the Manusmirti are delineated below :-

Paragraph 10 of Anju Garg's Case (supra)

"10) This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions

under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that **it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute.** In *Chaturbhuj vs, Sita Bai*², it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India."

(emphasis supplied)

Section 125 Cr.P.C. (Corresponding to Section 144 BNSS)

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 1* * * 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 in 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.

Chapter XI Verse 10 (Ekadasha Adhyaya Shlok 10) of the Manusmriti

***"वृद्धौ च मातापितरौ साध्वी भार्या सुतः शिशुः ।
अपकार्यशतं कृत्वा भर्तव्या मनुर्ब्रवीत ॥ "***

"Aged parents, a virtuous wife, and an infant son must be maintained (supported), even by performing a hundred misdeeds (improper actions)- so said Manu."

(English translation by Court)

8. In view of aforesaid submissions of learned counsel for the parties, this Court hereby modifies the impugned order dated 22.12.2025 and directs

the concerned trial court i.e. Principal Judge, Family Court, Kanpur Nagar as well as to the concerned higher authority of the Indian Bank, District Unnao to deduct 25% of his gross salary, after excluding the amount deducted towards income tax, as maintenance amount from his salary account and for crediting the same to the verified bank account of revisionist no.1/wife. The concerned trial court i.e. Principal Judge, Family Court, Kanpur Nagar is also directed to pass an order directing the concerned higher authority of the Indian Bank, District Unnao to deduct 25% of his gross salary, after excluding the amount deducted towards income tax, as maintenance amount from his salary account and for crediting the same to the verified bank account of revisionist no.1/wife.

9. With the aforesaid observations and directions, the instant revision is **disposed of.**

(Praveen Kumar Giri,J.)

October 22, 2026

Manish Himwan