



2025:UHC:11373

Reserved on 19.11.2025

Delivered on 19.12.2025

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**

**Criminal Revision No.109 of 2024**

Mohd. Arshad

.....Revisionist

Vs.

State of Uttarakhand & Others

.....Respondents

**Presence:-**

1. Mr. Bilal Ahmed, learned counsel for the Revisionist.
2. Mr. Vipul Painuly, learned A.G.A. for the State.
3. Mr. Pranav Singh and Mr. Manvendra Singh, learned counsel for the Respondent nos.2 & 3.

**Hon'ble Ashish Naithani, J.**

The present Criminal Revision has been instituted under Sections 397 and 401 of the Code of Criminal Procedure, 1973, read with Section 19 sub-section (4) of the Family Courts Act to question the legality and correctness of the judgment and order dated 01.12.2023 passed by the Judge, Family Court, Vikas Nagar, District Dehradun in Misc. Case No. 36 of 2022, whereby the application under Section 125 CrPC filed by Respondent No. 2 was allowed and the Revisionist was directed to pay maintenance of



₹ 10,000/- per month to the Respondent no.2 (wife) and ₹ 8,000/- per month to the minor daughter i.e. Respondent no.3.

2. The challenge essentially is to the finding of entitlement as well as to the quantum of maintenance awarded.

3. Heard learned counsel for the Revisionist, learned State counsel and learned counsel for Respondent Nos.2 and 3, and have examined the record available on file.

4. The marriage between the Revisionist and Respondent No. 2 was solemnized on 13.05.2012 in accordance with Muslim rites and customs. From the wedlock, Respondent No. 3, a daughter, was born.

5. The marital relationship did not remain cordial. Differences arose between the spouses, culminating in Respondent No. 2 leaving the matrimonial home and residing separately along with the minor child.

6. Alleging that the Revisionist neglected and refused to maintain her and the minor daughter despite having sufficient means, Respondent No. 2 instituted proceedings



under Section 125 CrPC before the Family Court, Vikas Nagar.

7. Evidence was led by the parties by way of affidavits and supporting material. Upon appreciation thereof, the Family Court recorded findings on entitlement and quantum and passed the impugned order awarding maintenance.

8. It is this order which has been assailed in revision.

9. Learned counsel for the Revisionist submitted that the Family Court failed to appreciate that Respondent No. 2 had not established any justifiable cause for living separately and that she had deserted the Revisionist.

10. It was argued that the burden lay upon Respondent No. 2 to prove neglect and inability to maintain herself, which burden, according to learned counsel, was not discharged.

11. Learned counsel further contended that the Family Court proceeded to fix maintenance without any documentary proof of income of the Revisionist and that the quantum awarded is excessive and beyond his paying capacity.



12. Emphasis was laid on the plea that Respondent No. 2 is educationally qualified and gives tuitions and therefore is not entitled to maintenance.

13. It was also urged that the Revisionist is required to support his aged parents who are suffering from ailments and that his financial condition deteriorated after the lockdown period.

14. On these premises, it was submitted that the impugned order suffers from material irregularity and warrants interference.

15. Learned counsel for Respondent Nos. 2 and 3 opposed the revision and submitted that the Family Court has carefully considered the pleadings and material and recorded findings which are neither perverse nor illegal.

16. Learned counsel submitted that Respondent No. 2 has no stable or sufficient income and that vague assertions regarding tuitions are unsupported by any evidence.

17. It was further argued that the right of the minor child to maintenance is absolute and independent and that the quantum awarded is commensurate with present day



living costs.

18. Learned AGA for the State supported the impugned order and submitted that no jurisdictional error or perversity is demonstrated so as to justify interference by this Court.

19. Before examining the merits, it is necessary to reiterate the scope of revisional jurisdiction. Under Sections 397 and 401 CrPC, this Court does not sit in appeal over the findings of the subordinate court. Interference is permissible only where the order suffers from patent illegality, perversity, or material irregularity resulting in miscarriage of justice.

20. Section 125 CrPC is a piece of social welfare legislation. Its object is not to adjudicate matrimonial rights in a strict civil sense, but to prevent destitution and vagrancy by compelling a person having sufficient means to support those who are dependent upon him.

21. The expression “unable to maintain herself” does not mean absolute destitution. It contemplates a situation where the wife does not have sufficient means to maintain herself in a manner commensurate with the status of the



parties.

22. Equally well settled is the principle that mere educational qualification or potential earning capacity of the wife does not disentitle her from claiming maintenance. The relevant fact is whether she is actually earning and whether such earning is sufficient.

23. In the present case, the plea that Respondent No.2 gives tuitions is not supported by any cogent material indicating regular income or quantum thereof. The Family Court was therefore justified in rejecting this contention.

24. The plea that Respondent No.2 left the matrimonial home without sufficient cause is a disputed question of fact. Proceedings under Section 125 CrPC are summary in nature and are not the forum for detailed adjudication of matrimonial fault. Unless conduct falling within the statutory disqualifications is clearly established, such pleas cannot defeat a claim for maintenance.

25. As regards the minor child, the obligation of the father to maintain his child is unconditional. The right of the child is independent and cannot be made subject to disputes



between the spouses.

26. The contention regarding financial hardship and responsibility towards aged parents has also been considered. While such factors are relevant, they do not by themselves absolve the Revisionist of his statutory obligation, particularly when no convincing material is produced to establish incapacity.

27. The Family Court has exercised its discretion in fixing the quantum of maintenance. The amount awarded does not appear to be arbitrary or shockingly excessive, keeping in view contemporary costs of living and the needs of a wife and minor child.

28. This Court finds that the impugned judgment reflects proper application of mind to the material on record and does not suffer from perversity, illegality, or material irregularity.

29. Interference at the revisional stage would amount to re appreciation of evidence and substitution of discretion, which is impermissible.

30. For the reasons recorded above, this Court is of the



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considered opinion that the Criminal Revision lacks merit.

**ORDER**

The Criminal Revision is dismissed.

The judgment and order dated 01.12.2023 passed by the learned Judge, Family Court, Vikas Nagar, District Dehradun in Misc. Case No. 36 of 2022 is affirmed.

Pending applications, if any, stand disposed of.

**(Ashish Naithani, J.)**  
19.12.2025

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