



2025:AHC:174721

**HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 1867 of 2024**

Shahzad

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Sayeed Saif Ullah, Sufia Saba
Counsel for Opposite Party(s)	:	Atul Kumar, G.A.

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Heard Shri Sayeed Saif Ullah, learned counsel for the revisionist, Shri Atul Kumar, learned counsel for the opposite party no.2 as well as learned A.G.A. appearing for the State-opposite party no. 1 and perusal the material on record.
2. The present criminal revision has been preferred with the prayer to set aside the order dated 12.01.2024 passed by the Principal Judge, Family Court, Muzaffar Nagar in Criminal Misc. Case No. 1544 of 2022 (Smt. Rukshar Vs. Sahazad) filed under Section 125 Cr.P.C Police Station- Nai Mandi, District- Muzaffar Nagar, by which the interim maintenance application of the opposite party no.2 filed under Section 125 Cr.P.C. has been allowed and the revisionist was directed to pay Rs.12,000/- per month as interim maintenance to the opposite party no.2 from the date of the application till the proceedings under Section 125 is decided finally.
3. Learned counsel for the revisionist states that the trial court without considering the income of the revisionist has awarded the interim maintenance of Rs.12,000/- per month to the opposite party no. 2 which is excessive and deserves to be set aside and quashed. Learned counsel for the revisionist further states that he is still ready to pay the interim maintenance amount provided it be reduced to Rs.5,000/- from Rs.12,000/-.
4. On the other hand, learned counsel for the opposite party no. 2 and learned AGA opposed the contentions raised on behalf of the revisionist and states that the revisionist is doing the work of dyeing and earns a handsome amount, therefore, the amount granted by the trial court cannot be said to be excessive and thus, prayed for enhancement of the interim maintenance amount.
5. The trial court in para-6 of the order mentioned that the opposite party no.2 has stated that the revisionist runs a business of printing clothes and earns

Rs.2,00,000/- per month while the revisionist has stated that the opposite party no.2 earns Rs.8,000/- per month but the court has reached at the conclusion that there is no evidence on record to assume the income as stated from both the sides, even then the court has ordered the revisionist to pay Rs.12,000/- per month which is incorrect in the eyes of law, when no documentary evidence record to establish the income of the revisionist, then under what circumstances the court has assessed the income of the revisionist and awarded Rs.12,000/- per month as interim maintenance to the opposite party no.2. However, during the course of argument, learned counsel for the revisionist has stated that the revisionist is labour and doing the work of die on the clothes, hence keeping view the nature of work of the revisionist, being able bodied persons, his income is assumed to be Rs.20,000/- per month.

6. On considering the facts and circumstances of the case, submissions made by learned counsel for the revisionist as well as learned A.G.A. perusal of record and order passed by learned trial court, it transpires that the revisionist is doing the work of labour and being a labour, he can easily earns Rs.20,000/- per month and as per the observations of the Apex Court in the case of **Rajnish Versus Neha and Another (2021) 2 Supreme Court Cases 324; Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy AIR 2017 Supreme Court 2383 and Kulbhushan Kumar Vs. Raj Kumari (1970) 3 SCC 129**, 25% of the net salary/income of the husband can be fixed as maintenance, which comes to Rs.5,000/-. Therefore, the amount of Rs.12,000/- per month as interim maintenance awarded by the trial court is deserves to be reduced from Rs.12,000/- to Rs.5,000/- per month. Accordingly, the amount of Rs.12,000/- is reduced to Rs.5,000/-, from the date of application and arrears, if any, be also accumulated as per the order passed today.

7. Accordingly, the order dated 12.01.2024 passed by the trial court is modified to the extent indicated above.

8. The trial court is expected to decide the application under Section 125 Cr.P.C. finally after providing proper opportunity hearing to the parties concerned to adduce their evidence, as expeditiously as possible, preferably within a period of three months from today.

9. With the above observations/directions, the instant criminal revision is **disposed of**.

September 26, 2025
Prajapati RK

(Madan Pal Singh,J.)