



2025:AHC:158963

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2060 of 2024

Vishwanath Singh Yadav

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Suneel Kumar Rai
Counsel for Opposite Party(s)	:	Beerendra Singh Pal, G.A.

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Suneel Kumar Rai, learned counsel for the revisionist, Beerendra Singh Pal, learned counsel for opposite party no.2 and the learned A.G.A. for the State.

2. This criminal revision has been filed by the revisionist under Section 397/401 Cr.P.C. questioning the judgment and order dated 22nd January, 2024 passed by the Principal Judge, Family Court, Auraiya, in Case No. 283 of 2017 (Kumari Arishti Yadav vs. Vishwanath Yadav) under Section 125 Cr.P.C., whereby the trial court while allowing the application filed by opposite party no.2 under Section 125 Cr.P.C. has directed the revisionist to pay Rs. 7,000/- per month to opposite party no.2 towards maintenance allowance on 10th day of each calendar month from the date of filing of application under Section 125 Cr.P.C.

3. The solitary ground to challenge the impugned judgment pressed before this Court by the learned counsel for the revisionist is that though the opposite party no.2 by means of her instant application under Section 125 Cr.P.C. has prayed for monthly maintenance allowance at Rs. 5,000/- per month from the revisionist but the trial court while deciding the instant application has awarded Rs. 7,000/-per month in favour of opposite party no.2 while passing the impugned judgment which is per se illegal.

4. To buttress the said ground, the learned counsel for the revisionist submits that it is settled law that the Court or Tribunal cannot grant such relief as not claimed by the claimant. Learned counsel for the revisionist submits that the impugned judgment cannot be legally sustained and is liable to be set aside.

5. On the other-hand, the learned counsel for opposite party no.2 and the learned A.G.A. for the State have opposed the submissions made by the learned counsel for the revisionist by submitting that the trial court has not committed any illegality or infirmity in passing the impugned judgment and awarding Rs. 7,000/- per month in favour of opposite party no.2 from the date of filing of application so as to warrant any interference by this Court in exercise of revisional jurisdiction.

6. Besides the above, learned counsel for opposite party no.2 submits that it is admitted case that opposite party no.2 is real minor daughter of the revisionist. He further submits that the instant application under Section 125 Cr.P.C. has been filed by opposite party no.2 on 29th July, 2017 and the impugned judgment has been passed on 22nd January, 2024. At the time of filing of instant application under Section 125 Cr.P.C., the opposite party no.2 was only 4 years old and now she is approximately 12 years old and expenses of her livelihood and education have much increased.

7. Learned counsel for opposite party no.2 next submits that as per his oral admission, the revisionist is a Government teacher and his net salary was Rs. 45,000/- per month at the time of pronouncement of the impugned judgment. Thus, keeping in mind the current inflation and expenses of livelihood and education of opposite party no.2, the amount of monthly maintenance allowance awarded by the trial court under the impugned judgment at Rs. 7,000/- per month cannot be said to be excessive and exorbitant. He, therefore, submits that since there is no illegality in the judgment impugned, the present criminal revision is liable to be dismissed.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties as well as perusal of record including the impugned judgment, this Court finds that it is an admitted case that the opposite party no. 2 is real minor daughter of the revisionist. It is also transpires from the record that opposite party no.2 is minor and has no source of income to maintain herself and also her mother has died.

9. It is no doubt true that any Court or Tribunal cannot grant any relief beyond the relief as claimed by the claimant. However, from bare reading of Section 125 Cr.P.C. this Court is of the opinion that the said provision is a "Social Welfare Legislation" and there is no rider in awarding the amount of monthly maintenance allowance. Admittedly, the instant application has been filed by the minor girl i.e. opposite party no.2 in the year 2017 and today in

September, 2025 when more than eight years have elapsed since then and the minor girl is now approximately 12 years old. In such a situation, the expenses of livelihood and education of opposite party no.2 would have much increased.

10. On the above premise, this Court is of the considered view that though in the instant application filed under Section 125 Cr.P.C. the minor daughter i.e. opposite party no.2 has prayed for monthly maintenance allowance to the tune of Rs. 5,000/- per month, but keeping in view the current net income of the revisionist at the time of pronouncement of the judgment and the necessity of the minor child who is now approximately 12 years old, the trial court has rightly come to the conclusion that the amount of Rs. 7,000/- per month is just and reasonable amount of maintenance allowance.

11. Here, this Court may also record that it will be too harsh for a minor girl who is 12 years old at the present time, whose mother has died and her father has solemnized second marriage with another woman to approach the trial court under Section 127 Cr.P.C. for enhancement of maintenance allowance under the changed and current scenario.

12. The Hon'ble Supreme Court of India in the cases of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324 and **Kulbhushan Kumar (Dr) v. Raj Kumari** reported in (1970) 3 SCC 129, has observed that the maintenance allowances can be granted up to the extent of 25% of the net income of the husband. The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury, the income of a husband can be fixed.

13. This Court may record that though the monthly maintenance allowance awarded by the trial court under the impugned judgment to the tune of Rs. 7,000/- in favour of opposite party no.2 is below from 25% of the net income of the revisionist as per the judgments of the Hon'ble Supreme Court of India in the cases of **Rajnesh and Kulbhushan Kumar (Dr) (Supras)**. However, considering the argument advanced by the learned counsel for the revisionist that undoubtedly, at the present time, the salary of the revisionist would have much increased from 2017 but since the revisionist has solemnized his second marriage with another woman and from the aforesaid wedlock, a child has also been born, therefore, he has also pious responsibility of his newly

wedded wife and child on his shoulder, this Court is of the considered view that the amount of monthly maintenance allowance awarded by the trial court under the impugned judgment in favour of opposite party no.2 to the tune of Rs. 7,000/- per month is realistic, justify and reasonable.

14. Consequently, this Court holds that the present criminal revision has no merit and is, accordingly, **dismissed**.

15. There shall be no orders as to costs.

September 9, 2025
Sushil/-

(Madan Pal Singh,J.)