



2025:AHC:170200

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2837 of 2024

Smt. Neha And Another

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Rakesh Pandey, Rohit Pandey
Counsel for Opposite Party(s)	:	G.A., Kamal Singh Yadav

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Rakesh Pandey, learned counsel for the revisionists, Mr. Kamal Singh Yadav, 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 revisionists under Section 397/401 Cr.P.C. with a prayer to set aside the judgment and order dated 30th March, 2024 passed by the Additional Principal Judge, Family Court, Jhansi in Criminal Case No. 840 of 2019 (Smt. Neha & Another Vs. Susheel Sanoria), under Section 125 Cr.P.C., Police Station-Navabad, District-Jhansi insofar as it awards Rs. 4,000/- per month each to the revisionist nos. 1 and 2 towards monthly maintenance allowance from the date of filing of instant application. The revisionists by means of the present revision also prays for enhancement of the amount of monthly maintenance allowance as awarded under the impugned judgment.

3. The sole and solitary contention of the learned counsel for the revisionists is that it is no doubt true that during the course of trial, the opposite party no.2 was working in B.H.E.L. on Class-III post and his basic salary was 42,000/- to Rs. 43,000/- per month along with 35 to 36% dearness allowance, meaning thereby that his total salary was approximately Rs. 50,000/- to Rs. 55,000/- per month. However, the trial court while partly allowing the application of the revisionists under Section 125 Cr.P.C. has awarded Rs. 4,000/- each to the revisionist nos. 1 and 2 i.e. total Rs. 8,000/- per month only, which is too meagre and not in accordance with the guidelines framed by the Hon'ble Supreme Court of India in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324.

4. On the above premise, learned counsel for the revisionists prays that considering the above facts and circumstances, the amount of maintenance

allowance awarded by the trial court under the impugned judgment may be enhanced to some extent after modifying the impugned judgment passed by the trial court.

5. Except the above contention, learned counsel for the revisionists has not stated anything else.

6. 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 revisionists by submitting that the trial court has not committed any illegality or infirmity in passing the impugned judgment and awarding Rs. 4,000/- per month in favour of revisionist no.1 and Rs. 4,000/- in favour of revisionist no.2 towards monthly maintenance allowance from the date of filing of application under Section 125 Cr.P.C. so as to warrant any interference by this Court in exercise of revisional jurisdiction. They further submit that the amount of monthly maintenance allowance as awarded by the trial court under the impugned judgment in favour of the revisionists is reasonable, realistic and justifiable.

7. Besides the above, learned counsel for opposite party no.2 submits that revisionist no.1 is living separately from her husband i.e. opposite party no.2 along with revisionist no.2 since 12 years. The opposite party no.2 also filed divorce petition under the provisions of Hindu Marriage Act but the same has been dismissed by the court below against which the opposite party no.2 filed first appeal before the Hon'ble High Court, which is still pending consideration. Learned counsel for opposite party no.2 next submits that the revisionist no.1 is having a degree of graduation and she earns handsome money by taking tuitions.

8. On the above premise, learned counsel for opposite party no.2 submits that since the trial court while passing the impugned judgment has not committed any error, therefore, the present criminal revision is liable to be dismissed.

9. 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 revisionist no.1 is the legally wedded wife of the opposite party no.2 whereas revisionist no.2 is the real minor daughter of opposite party no.2 and as per the settled law, the opposite party no.2 cannot shirk from his pious liabilities for maintaining his legally wedded wife and real daughter i.e revisionist nos. 1 and 2.

10. With regard to issue of separate living of revisionist no.1 from her husband i.e. opposite party no.2, the trial court has recorded categorical

finding for coming to the conclusion that the revisionist no.1 is living separately from opposite party no.2 along with revisionist no.2 with sufficient cause. Since this Court sits in a revisional jurisdiction, it cannot embark upon a re-appreciation of evidence as suggested by the learned counsel for the revisionist. The evidence led before the trial court has been dealt with by the trial court while passing the impugned judgment. Therefore, this Court is of the view that this Court cannot substitute its own finding while exercising its powers under Section 397/401 Cr.P.C.

11. It is undisputed fact also that during the course of trial opposite party no.2 has admitted himself that he was working in B.H.E.L. as Class-III employee and was getting basic salary of Rs. 42,000/- to Rs. 43,000/- per month and he was also receiving 35 to 35% dearness allowance, meaning thereby his total salary would be Rs. 50,000/- to 50,000/- per month but after deductions of income tax, group insurance etc. he would get Rs. 42,000/- per month.

12. The Hon'ble Supreme Court of India in the cases of **Rajnesh (Supra) 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.

13. Keeping in view of the income of revisionist as well as guidelines issued by the Hon'ble Apex Court in **Rajnesh and Kulbhushan Kumar (Dr) (Supras)**, this court is of the considered opinion that it is admitted by opposite party no.2 before the trial court that during the course of trial he was getting Rs. 42,000/- per month, therefore, 25% of Rs. 42,000/- would be Rs. 10,500/- and in that circumstance, the total amount of maintenance allowance fixed by the trial court at Rs. 8,000/- in favour of revisionist nos. 1 and 2 (Rs. 4,000/- per month each) is too meagre amount and the same deserves to be enhanced to total Rs. 10,500/- per month from Rs. 8,000/- per month from the date of filing of the instant application.

14. Consequently, judgment and order dated 30th March, 2024 passed by the Additional Principal Judge, Family Court, Jhansi in Criminal Case No. 840 of 2019 (Smt. Neha & Another Vs. Susheel Sanoria), under Section 125 Cr.P.C., Police Station-Navabad, District-Jhansi is modified to the extent that now the opposite party no.2 shall pay Rs. 6,000/- per month to the revisionist no.1 (wife) and Rs. 4,500/- per month to revisionist no.2 (minor daughter) towards maintenance allowance from the date of filing of the instant application. Since

the opposite party no.2 is a Class-III employee, it would be too harsh for him to pay the same in one stroke. Therefore, this Court directs the opposite party no.2 to pay the total arrears of maintenance allowance as directed above in 10 equal monthly installments. The first monthly installment shall commence from 5th October, 2025.

15. It is also clarified that the arrears of amount towards maintenance allowance as awarded by the court below shall be calculated on the basis of amount of maintenance allowance as fixed by this Court herein above and after that if it is found that any amount has been paid in excess, the same shall be adjusted from the amount to be paid.

16. The present criminal revision is, accordingly, partly allowed.

17. There shall be no order as to costs.

September 22, 2025

Sushil/-

(Madan Pal Singh,J.)