



2025:AHC:171623

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3033 of 2024

Ravishankar Yadav

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Kshitij Tiwari
Counsel for Opposite Party(s)	:	G.A., Krishna Kant Upadhyay

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Kshitij Tiwari, learned counsel for the revisionist, Mr. Krishna Kant Upadhyay, 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 14th March, 2024 passed by the Principal Judge, Family Court, Chandauli in Maintenance Case No. 387 of 2019 (Sangeeta Yadav VS. Ravishankar Yadav), under Section 125 Cr.P.C., whereby the trial court while allowing the application filed by opposite party no.2, has directed the revisionist to pay Rs. 3,000/- per month to opposite party no.2 (wife) Sangeeta Yadav and Rs. 1,500/-per month to Garima Yadav (minor daughter of the revisionist and opposite party no.2) towards monthly maintenance allowance on 14th day of each calendar from the date of filing of the instant application

3. The sole and solitary contention of the learned counsel for the revisionist is that it is no doubt true that he has two and a half bighas of ancestral agricultural land and from that, he somehow earns some money for his livelihood. He has no other source of income. He, therefore, submits that under such circumstances, the monthly maintenance allowance as awarded by the trial court under the impugned judgment in favour of opposite party no. 2 to the tune of total Rs. 3,000/- per month and Rs. 1,500/- per month to his daughter Garima Yadav is too excessive and exorbitant and not commensurate with the net income of the revisionist.

4. On the above premise, learned counsel for the revisionist prays that since the trial court has not considered the financial position of the revisionist while passing the impugned judgment, therefore, the same is liable to be set aside.

5. Except the above contention, learned counsel for the revisionist 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 revisionist by submitting that the trial court has not committed any illegality or infirmity in passing the impugned judgment.

7. Besides the above, learned counsel for opposite party no.2 submits that the opposite party no.2 is living separately from her husband i.e. revisionist on the ground that the revisionist has solemnized his second marriage with one Chandra Kala and is living with her. He, further submits that the amount of monthly maintenance allowance as awarded by the trial court under the impugned judgment is not excessive or exorbitant keeping in view the current inflation.

8. On the above premise, learned counsel for opposite party no.2 submits that since the appellate court while passing the impugned judgment has not committed any error in the eyes of law, therefore, 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 the trial court for deciding the instant application under Section 125 Cr.P.C. has framed five issues and while deciding the said issues, the trial court has recorded categorical finding of facts for each and every issues. The trial court while deciding the issue no.2 qua separate living of opposite party no.2 with her husband i.e revisionist, has recorded that the revisionist is in relation with another woman due to which the relationship between husband and wife i.e. revisionist and opposite party no.2 became strained and incompatible and for resolving the said dispute, a meeting between their well-wishers have also been convened.

10. The trial court, while deciding issue no.3 has also recorded that opposite party no.2 is entitled to get monthly maintenance allowance as she has no source of income and such fact has also not been disputed on behalf of the revisionist either before the trial court or before this Court.

11. While deciding the above issues, the trial court has recorded categorical finding of facts, which cannot be interfered by this Court in exercise of revisional jurisdiction unless if it is found that such finding is completely perverse in fact and law.

12. 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.

13. The main question is up for consideration before this Court is whether the amount of monthly maintenance allowance as awarded by the trial court under the impugned judgment is in accordance with the law laid down by the Hon'ble Supreme Court of India in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324 or not?.

14. This Court may record that during the course of argument, learned counsel for the revisionist has submitted that it is no doubt true that earlier the revisionist was in a private job and was getting a salary of Rs.40,000/- per month but after two years of his marriage, he has left his such job because of ailment of his father and mother.

15. It is admitted by the learned counsel for the revisionist either before the trial court or this Court that the revisionist is an able bodied person and he is not physically deformed.

16. The Hon'ble Supreme Court of India in the case of **Rajnesh** (Supra) has opined that since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband is required to earn money even by physical labour, if he is able-bodied, and cannot not avoid his obligation.

17. It is also not clear from the record that at present as to how much money he earns in a month. No documentary evidence is available on record with regard to the exact monthly income of the revisionist. However, as per the statement of the revisionist himself before the trial court that he having 2 and half bighas of agricultural land, does agricultural work like a labourer. In that circumstance, if it is considered that he is a labourer then looking to current inflation, he would at least earn Rs. 600/- per day, meaning thereby that his total monthly income would be Rs.18,000/- per month.

18. 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.

19. 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 the amount of maintenance allowance fixed by the court below i.e. Rs. 3,000/- per month in favour of opposite party no.2 and Rs. 1,500/- per month to daughter of the revisionist Garima Yadav is exact amount of monthly maintenance allowance as per the law laid down by the Hon'ble Supreme Court in the aforesaid cases. 25% of the total monthly amount i.e. Rs. 18,000 as quantified by this Court herein-above would be Rs.4,500/- and total amount of monthly maintenance allowance awarded by the trial court under the impugned judgment in favour of opposite party no.2 and her daughter is also Rs.4,500/-, which is reasonable, realistic and justifiable.

20. Such judgment passed by the trial court awarding reasonable and realistic monthly maintenance allowance in favour of opposite party no.2 and her daughter cannot be said to be illegal or perverse. The same is hereby affirmed.

21. The present criminal revision is devoid of merits and is, accordingly, **dismissed**.

22. There shall be no order as to costs.

September 23, 2025
Sushil/-

(Madan Pal Singh,J.)