



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>CRLR/146/2024</u> Chandan Kumar Biswas --Revisionist Versus State Of Uttarakhand --Respondent <u>Hon'ble Alok Mahra, J.</u> Ms. Pushpa Joshi, learned senior counsel assisted by Mr. Rajat Kholia, learned counsel for the revisionist. 2. Mr. Jai Prakash Kandpal, learned Brief Holder for the State. 3. Mr. Mani Kumar, learned counsel for respondent nos.2 & 3. 4. Present criminal revision has been preferred assailing the judgment and order dated 07.02.2024 passed by the learned Family Court-I, Rudrapur, District Udham Singh Nagar, in Misc. Criminal Case No. 393 of 2019, whereby the application preferred by respondent nos. 2 and 3 under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the "Code") was partly allowed and the revisionist was directed to pay maintenance at the rate of ₹15,000/- per month to respondent no. 2/wife and ₹10,000/- per month to respondent no. 3/minor son, amounting to a total sum of ₹25,000/- per month. 5. Learned Senior Counsel appearing for the revisionist would submit that the marriage between the revisionist and respondent no. 2 was solemnized on 22.04.2016 in accordance with Hindu rites



		and out of the said wedlock, respondent no. 3, a male child, was born; that, due to matrimonial discord between the parties, respondent no. 2, along with the minor child, has been residing separately from the revisionist; that, thereafter, respondent nos. 2 and 3 preferred an application under Section 125 of the Code seeking maintenance from the revisionist, inter alia, on the ground that the revisionist was employed as a Clerk-cum-Cashier in a nationalised bank and was earning more than ₹80,000/- per month. The said application came to be partly allowed by the learned Family Court vide the impugned judgment and order dated 07.02.2023. 6. She would further submit that the revisionist had filed his objections to the said application, specifically pleading that respondent no. 2 had voluntarily left the matrimonial home without any sufficient or justifiable cause. It was also pleaded that the actual gross monthly salary of the revisionist was ₹63,168/-, whereas, after statutory deductions and other liabilities, his net monthly income was only ₹28,859/-. Learned Senior Counsel would further submit that the revisionist was also required to discharge his responsibility towards his aged mother, who was dependent upon him and required regular medical treatment and expenditure towards medicines, besides meeting his own day-to-day necessities and other financial obligations. 7. Learned Senior Counsel would further submit that, during the proceedings before the learned Family Court, the statements of respondent no. 2 as well as the revisionist
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		were recorded and the material available on record was duly considered; that, the learned Family Court, while assessing the entitlement of respondent nos. 2 and 3 as well as the financial capacity of the revisionist, took note of the allegations made by respondent no. 2 regarding cruelty and her assertion that she had been compelled to leave the matrimonial home on account of the conduct of the revisionist; that, the learned Family Court also considered the salary and financial circumstances of the revisionist while determining the quantum of maintenance. 8. Learned Senior Counsel would, however, submit that there is an apparent inconsistency between the reasoning recorded in the body of the impugned judgment and the operative portion thereof. It is contended that, while recording its conclusion in the body of the judgment, the learned Family Court specifically observed that the revisionist was liable to pay maintenance at the rate of ₹10,000/- per month each to respondent nos. 2 and 3. However, in the operative portion of the impugned judgment, the learned Family Court directed the revisionist to pay ₹15,000/- per month to respondent no. 2/wife and ₹10,000/- per month to respondent no. 3/minor son. According to learned Senior Counsel, the difference in the amount awarded to respondent no. 2 appears to be an inadvertent or typographical error, particularly when the assessment and conclusion recorded in the body of the judgment indicate an award of ₹10,000/- per month each in favour of
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		respondent nos. 2 and 3. It is, therefore, submitted that the impugned judgment requires appropriate modification to that extent. 9. Per contra, learned counsel appearing for respondent nos. 2 and 3 would fairly submit that there is a discrepancy between the conclusion recorded in the body of the impugned judgment and the amount specified in its operative portion. He would further submit that it is admitted that the learned Family Court, in the body of the judgment, had recorded that the revisionist was liable to pay ₹10,000/- per month each to respondent nos. 2 and 3, whereas the operative portion directs payment of ₹15,000/- per month to respondent no. 2 and ₹10,000/- per month to respondent no. 3. 10. Learned counsel, however, submits that the salary of the revisionist has subsequently increased in accordance with the applicable service rules/government policy and, therefore, the amount of maintenance awarded by the learned Family Court ought not to be interfered with and, rather, would warrant enhancement. 11. Heard learned counsel for the parties and perused the material available on record. 12. Having considered the submissions advanced by learned counsel for the parties and upon perusal of the impugned judgment, this Court finds that there is a patent inconsistency between the findings recorded in the body of the judgment and the operative portion thereof. In the body of
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		the judgment, the learned Family Court has assessed the circumstances of the parties and has recorded a finding that the revisionist is liable to pay maintenance at the rate of ₹10,000/- per month each to respondent nos. 2 and 3. However, while drawing up the operative portion of the judgment, the amount payable to respondent no. 2 has been mentioned as ₹15,000/- per month, while the amount payable to respondent no. 3 has been maintained at ₹10,000/- per month. 13. In the considered opinion of this Court, the aforesaid discrepancy, in the facts and circumstances of the case, appears to be an inadvertent error in the operative portion of the judgment, particularly when the assessment and conclusion recorded in the body of the judgment clearly indicate the determination of maintenance at ₹10,000/- per month each for respondent nos. 2 and 3. Accordingly, to that limited extent, the impugned judgment and order dated 07.02.2023 is liable to be modified. 14. The submission advanced on behalf of respondent nos. 2 and 3 that the salary of the revisionist has subsequently increased and, therefore, the amount of maintenance should be enhanced, cannot, by itself, furnish a ground to sustain an amount which is inconsistent with the determination recorded by the learned Family Court in the body of the judgment. Moreover, no revision or other appropriate proceedings seeking enhancement of the maintenance amount on account of any subsequent increase in the income of the revisionist have been preferred by respondent nos. 2 and 3 before this
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		Court. Needless to observe, if respondent nos. 2 and 3 are otherwise entitled to seek alteration or enhancement of maintenance on account of any subsequent change in circumstances, including a material increase in the income of the revisionist, it would be open to them to avail such remedy in accordance with law. 14. Accordingly, the impugned judgment and order dated 07.02.2023 is modified to the extent that the revisionist shall pay maintenance at the rate of ₹10,000/- per month to respondent no. 2/wife and ₹10,000/- per month to respondent no. 3/minor son, i.e. a total sum of ₹20,000/- per month, in terms of the determination recorded by the learned Family Court in the body of its judgment. Except to the aforesaid extent, no other interference with the impugned judgment and order is warranted. 15. Accordingly, the criminal revision is partly allowed. The judgment and order dated 07.02.2024 passed in Misc. Criminal Case No. 393 of 2019, stands modified to the extent indicated hereinabove. The remaining part of the impugned judgment and order shall remain unaltered. 16. Pending applications, if any, also stand disposed of accordingly. MAMTA RANI (Alok Mahra, J.) 11.08.2026
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