



HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 267 of 2026

17th August, 2026

Hareram

.....Revisionist

Versus

State Of Uttarakhand and Another

.....Respondents

Presence:-

Ms. Suraiya Naaz, learned counsel for the revisionist.

Mr. Shailendra Singh Chauhan, learned Deputy A.G. along with

Mr. Vikash Uniyal, learned Brief Holder for the State.

Ms. Radha Arya, learned legal aid counsel for respondent no.2.

Hon'ble Alok Mahra, J.(Oral)

Present criminal revision has been preferred by the revisionist assailing the order dated 05.02.2026 passed by the learned Additional Principal Judge, Family Court, Udham Singh Nagar in Misc. Criminal Case No. 40 of 2025, whereby, while considering the application under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "B.N.S.S."), the learned court below has awarded interim maintenance in favour of respondent no.2 and directed the revisionist to pay a sum of ₹3,000/- per month to her as interim maintenance.

2. Learned counsel for the revisionist would submit that the impugned order is unsustainable in law as well as on facts, having been passed



without proper appreciation of the material available on record. It is contended that the learned court below failed to take into consideration the specific case of the revisionist that respondent no.2 voluntarily left the matrimonial home and started residing with another person; that, in this regard, the revisionist had submitted complaints before the concerned Police Station as well as the Senior Superintendent of Police, pursuant to which an inquiry was conducted and, according to the revisionist, respondent no.2 herself stated that she desired to live with the said person and declined to reside with the revisionist. It is, therefore, argued that the separation of respondent no.2 from the revisionist was not without cause attributable to the revisionist, but was voluntary on the part of respondent no.2.

3. Learned counsel for the revisionist would further submit that Section 144(4) of the B.N.S.S. expressly disentitles a wife from receiving maintenance if she is living in adultery; that, the material placed before the learned court below was sufficient to raise a serious and specific plea regarding the conduct of respondent no.2, but the same has not been appropriately considered while granting interim maintenance; that, respondent no.2 is residing separately of her own volition and



has allegedly severed her relationship with the revisionist and their children.

4. Learned counsel would also submit that the revisionist is a labourer and earns only about ₹8,000/- to ₹10,000/- per month, out of which he has to maintain himself, his aged mother of about 80 years and his children; that, respondent no.2 is earning by working as a domestic help and, despite being the mother of the children, has not been discharging her responsibility towards them. It is thus argued that the learned Family Court failed to properly appreciate the rival pleadings and the material placed before it and mechanically awarded interim maintenance, therefore, the impugned order deserves to be set aside.

5. Per contra, learned Legal Aid Counsel appearing for respondent no.2 would oppose the revision and submit that the marriage between the revisionist and respondent no.2 was solemnized in the year 2000 according to Hindu rites and rituals and five children were born out of the said wedlock. It is submitted that the matrimonial relationship became strained on account of the conduct of the revisionist, who, on several occasions, physically assaulted respondent no.2 and their children and also caused burn injuries to respondent no.2 by



cigarette butts; that, on account of such acts of cruelty and physical violence, respondent no.2 was compelled to live separately from the revisionist.

6. She would further submit that the allegation of adultery has specifically been denied by respondent no.2 before the learned court below and that no legally admissible and conclusive material has been brought on record to establish that respondent no.2 is living in adultery; that, respondent no.2 is the legally wedded wife of the revisionist and is entitled to seek maintenance in accordance with law. It is further submitted that the proceedings under Section 144 of the B.N.S.S. are still pending for final adjudication and, at the interlocutory stage, the mere allegation of adultery, particularly when specifically denied, cannot by itself be treated as conclusively establishing the statutory disqualification contemplated under Section 144(4) of the B.N.S.S. It is, therefore, contended that the learned Family Court has rightly granted a modest amount of ₹3,000/- per month towards interim maintenance and no interference is warranted in revisional jurisdiction.

7. Heard learned counsel for the parties and perused the material available on record.

8. It is not in dispute that respondent no.2



is the legally wedded wife of the revisionist. The principal contention raised on behalf of the revisionist is that respondent no.2 is living in adultery and, therefore, is disentitled to maintenance under Section 144(4) of the B.N.S.S. However, the said allegation has been specifically disputed by respondent no.2. The question as to whether respondent no.2 is, in fact, living in adultery and whether she has sufficient cause to reside separately from the revisionist are matters which require consideration on the basis of evidence during the final adjudication of the proceedings under Section 144 of the B.N.S.S. A mere allegation, particularly when disputed by the wife, cannot, at the stage of interim maintenance, be treated as conclusively establishing the statutory disqualification.

9. The object of granting interim maintenance is to provide immediate financial support to the claimant during the pendency of the maintenance proceedings and to prevent her from being left without means of sustenance. At this interlocutory stage, the Court is not required to finally adjudicate disputed questions of fact or conduct a detailed appreciation of evidence as would be necessary at the stage of final disposal. The contentions regarding the alleged relationship of respondent no.2 with another person, her



alleged independent income, the circumstances in which she is residing separately, and the actual income and liabilities of the revisionist are all matters which can appropriately be examined by the learned Family Court on the basis of evidence led by the parties.

10. So far as the plea regarding the financial capacity of the revisionist is concerned, the amount awarded towards interim maintenance is only ₹3,000/- per month. The revisionist shall, however, be at liberty to place the necessary material regarding his actual income, liabilities and dependants before the learned Family Court, which shall consider the same while finally determining the application for maintenance in accordance with law.

11. Having regard to the fact that respondent no.2 is the legally wedded wife of the revisionist, the allegation of adultery has been specifically disputed, and the proceedings under Section 144 of the B.N.S.S. are still pending for final adjudication, this Court does not find any illegality, perversity or jurisdictional error in the order dated 05.02.2026 warranting interference in exercise of revisional jurisdiction. The findings recorded herein are confined only to the question of interim maintenance and shall not prejudice the rights or contentions of either party before the



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learned Family Court at the stage of final adjudication.

12. Accordingly, the criminal revision is dismissed.

13. It is, however, clarified that the learned Family Court shall decide the proceedings under Section 144 of the B.N.S.S. independently, strictly on the basis of the evidence and material brought on record, without being influenced by any observation made in the present order.

14. No order as to costs.

(Alok Mahra, J.)
17.08.2026

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