



2026:AHC:211332

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1319 of 2017

Smt. Shivani

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Devashish Mitra
Counsel for Opposite Party(s)	:	Bhaskar Bhadra, G.A.

Court No. - 86

HON'BLE JAI KRISHNA UPADHYAY, J.

1. List revised.
2. None appeared on behalf of opposite party no. 2.
3. Heard Mr. Devashish Mitra, learned counsel for the revisionist and learned AGA for the State.
4. The present criminal revision is filed by the revisionist against the judgment and order dated 02.03.2017 passed by Principal Judge, Family Court, Bareilly, District - Bareilly in Misc. Case No. 209 of 2015 (Smt. Shivani Vs. Sanjeev Kumar) U/s 125 Cr.P.C, Police Station - Baradari, District - Bareilly.
5. The revisionist is aggrieved only by the limited aspect of the impugned order - directing payment of maintenance with effect from 02.03.2017, and not from the date of filing of the application under Section 125 of Cr.P.C. i.e. 17.03.2015.
6. The learned counsel appearing on behalf of the revisionist submits that the learned Family Court has erred in directing that maintenance shall be payable only with effect from 02.03.2017 instead of from the date of filing

of the application, i.e., 17.03.2015, without recording any cogent or special reasons for departing from the general rule. It is argued that the application under Section 125 of Cr.P.C. had remained pending for about two years for no fault of the revisionist, and she had been compelled to survive on financial assistance from friends and relatives during this period while the opposite party no. 2 was being gainfully employed and earning approximately Rs. 40,000/- per month at the relevant time. Learned counsel for the revisionist further submits that the Family Court, having accepted her entitlement to maintenance and having found no independent source of income in her favour, ought to have granted maintenance from the date of application, and the failure to do so has resulted in grave financial prejudice to the wife, who has been left without lawful support for the prolonged pendency of the proceedings. It is therefore prayed that the impugned order be modified to the limited extent of directing that maintenance be payable from the date of filing of the application under Section 125 Cr.P.C.

7. The learned counsel appearing on behalf of the State-respondent submits that the present revision is wholly misconceived and liable to be dismissed, inasmuch as the learned Family Court has exercised its discretion judiciously and for recorded reasons while directing that maintenance be payable with effect from 02.03.2017, having regard to the peculiar facts of the case. It is argued that the law does not mandatorily require that maintenance must, in every case, be granted from the date of filing of the application, and the discretion vested in the Court to determine the effective date continues to subsist depending upon the facts and equities of each case.

8. This Court has heard arguments addressed on behalf of the revisionist as well as the learned AGA for the State-respondent and has perused the material available on record.

9. This Court notes that the present revision has been preferred by the wife assailing the impugned order on the ground that the learned Family Court, while granting maintenance, erred in directing that the same shall be payable with effect from 02.03.2017 instead of from the date of filing of the application under Section 125 of Cr.P.C., i.e., 17.03.2015.

10. Therefore, the principal issue which arises for consideration is whether the learned Family Court was justified in directing that maintenance shall be payable from 02.03.,2017, or whether, in the facts and circumstances of the case, the revisionist is entitled to maintenance from the date of filing of the application under Section 125 of Cr.P.C.

11. As regards the issue of date from which maintenance is to be granted, the

Honble Supreme Court in **Rajnish v. Neha: (2021) 2 SCC 324** has held and directed as under:

"109. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in Section 125(2) Code of Criminal Procedure, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 Code of Criminal Procedure In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

110. In Shail Kumari Devi and Ors. v. Krishnan Bhagwan Pathak, this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In Bhuwan Mohan Singh v. Meena, this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

*** VI. Final Directions

(a)

(b)

(c)

(d) Date from which maintenance is to be awarded

131. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B - IV above."

12. In **Shahjahan v. State of Uttar Pradesh & Anr.: 2025 INSC 528**, the Honble Supreme Court considered the issue regarding the date from which maintenance under Section 125 of Cr.P.C. ought to be made payable. The relevant observations are extracted herein below:

"17. This brings us to the next question, i.e., from which date will the maintenance be payable - the date of the application or the date of the Order? The appellant has contested the direction of the Family Court wherein it has made the maintenance payable from the date of the order instead of the date of application. Of course, Section 125(2) of the Code empowers the Court to award maintenance from the date of the order but the same has to be justified in the background of the attendant facts and circumstances and should not cause unnecessary hardship to the applicant. In our view, Section 125 of the Code is a beneficial piece of legislation which has been

enacted to protect the wife and children from destitution and vagrancy and, in the usual course, it would not be appropriate to disadvantage the applicant for the delay in the disposal of the application by the judicial system. It would be beneficial to reproduce the relevant discussion in Rajnesh v Neha, (2021) 2 SCC 324, which is extracted hereunder:

"109. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the court to grant maintenance either from the date of application or from the date of the order in Section 125(2) CrPC, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 CrPC. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

110. In Shail Kumari Devi v. Krishan Bhagwan Pathak [Shail Kumari Devi v. Krishan Bhagwan Pathak, (2008) 9 SCC 632: (2008) 3 SCC (Cri) 839], this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In Bhuwan Mohan Singh v. Meena [Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353: (2015) 3 SCC (Civ) 321: (2015) 4 SCC (Cri) 200], this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual.

The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

111. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned.

112. In Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188: (2014) 1 SCC (Civ) 51], the Supreme Court was considering the interpretation of Section 125 CrPC. The Court held: (SCC p. 196, para 13) "13.3. ... purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve "social justice" which is the constitutional vision,

enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society."

113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.

13. No doubt, **Rajnesh** (supra) was pronounced after the Family Court's Impugned Order, but its enunciation of the law would entail that maintenance should be reckoned as awarded from the date of filing of the application in this behalf.

14. A holistic consideration of the aforesaid authoritative pronouncements reflects a well settled and consistent judicial approach that maintenance under Section 125 Cr.P.C. ought to be granted, as a general rule, from the date of filing of the application rather than from the date of the order.

15. In the facts of the present case, the revisionist - being the wife - had asserted that she had no independent source of income and was dependent upon assistance from relatives and friends. The opposite party no. 2, at the relevant time, was gainfully employed and earning a regular income. Even as per the material before the Family Court, his net income was assessed at about 40,000/- per month, and there is nothing to suggest that during the initial pendency of the application, he was incapable of contributing towards the maintenance of his family. The record also reflects prolonged litigation between the parties; however, there is no finding that the revisionist was responsible for any deliberate delay so as to disentitle her from maintenance for the earlier period.

16. In view of the aforesaid discussion, this Court is of the opinion that the learned Family Court erred in directing that maintenance shall be payable only with effect from 02.03.2017 without assigning adequate reasons. The revisionist herein is held entitled to maintenance from the date of filing of the application i.e., 17.03.2015. The impugned order dated 02.03.2017 is accordingly modified to this extent, subject to adjustment of any amounts already paid.

- 17. In view of the above, the present criminal revision is **allowed**.
- 18. Let the copy of this order be sent to the court concerned for information and compliance.

October 8, 2026
S.K.S.

(Jai Krishna Upadhyay,J.)