



2026:AHC:204711

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3093 of 2024

Smt Vishesh Kumari

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite

Party(s)

Along with :

1. Criminal Revision No. 2914 of 2024:

Shailendra Singh

Versus

State of U.P. and another

Counsel for Revisionist(s)	: Jitendra Pal Singh, Satyendra Narayan Singh, Sumit Daga, Sushil Kumar Pandey
Counsel for Opposite Party(s)	: G.A., Jitendra Pal Singh, Sachin Srivastava, Sumit Daga

Court No. - 87

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Heard Mr. Sumit Daga, learned counsel for the revisionist in Criminal Revision No. 3093 of 2024 and learned counsel for opposite party no. 2 in connected Criminal Revision No. 2914 of 2024, Mr. Jitendra Pal Singh, learned counsel for opposite party no. 2 in Criminal Revision No. 3093 of 2024 and learned counsel for the revisionist in connected Criminal Revision No. 2914 of 2024, learned A.G.A. appearing on behalf of the State and perused the material available on record.

2. Both these Criminal Revisions have been filed against the same impugned judgment and order dated 30.04.2024 passed by the Additional Principal Judge, Family Court No. 2, Muzaffarnagar (hereinafter referred to as "the Trial Court") in Case No. 354 of 2022, Smt. Vishesh Kumari v. Shailendra Singh, whereby the Trial Court allowed the application under Section 125 Cr.P.C. of the revisionist (wife) and directed the opposite party no. 2 (husband) to pay Rs. 25000/- per month to the revisionist (wife) as maintenance from the date of institution of application under Section 125 Cr.P.C.

3. Criminal Revision No. 3093 of 2024 has been preferred by the wife seeking enhancement of the amount of maintenance granted by the Trial Court. Criminal Revision No. 2914 of 2024 has been preferred by the husband with a prayer to set aside the impugned judgment and order of maintenance granted by the Trial Court.

4. Since both these Criminal Revisions arise from the same impugned judgment and order, these are being decided together, being Criminal Revision No. 3093 of 2024 as the leading case.

5. Feeling aggrieved by the inadequacy of the aforesaid amount of maintenance, the wife-revisionist has preferred the present Criminal Revision, *inter alia*, on the ground that the impugned judgment and order is illegal and contrary to the settled principles of law. It is further contended that the impugned order has been passed without proper consideration of the material available on record and that the Trial Court has committed a manifest error of law in passing the same. Accordingly, a prayer has been made for allowing the present Criminal Revision and setting aside the impugned judgment and order.

6. Learned counsel for the husband-revisionist has assailed the impugned judgment and order, contending that the amount of maintenance awarded by the Trial Court is excessive and disproportionate to the income of the revisionist-husband. It is further submitted that the impugned order is contrary to the weight of evidence available on record and suffers from errors of fact and law. Accordingly, a prayer has been made for setting aside the impugned judgment and order and allowing the present Criminal Revision.

7. Learned counsel for the wife-revisionist submitted that the Trial Court has assessed the monthly income of the husband-revisionist at Rs. 2,00,000/-. It is, therefore, contended that, in view of the law laid down by the Supreme Court in **Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy, (2017) 14 SCC 200**, the wife-revisionist is entitled to maintenance of Rs. 50,000/- per month.

8. *Per contra*, learned counsel for the husband-revisionist submits that the Trial Court has erroneously assessed the monthly income of the husband-revisionist at Rs. 2,00,000/- per month. Referring to paragraph 36 of the impugned judgment, it is submitted that the revisionist-husband had disclosed his monthly income as Rs. 12,000/- and had also filed Income Tax

Returns for the assessment years 2016-17, 2017-18 and 2018-19, showing his annual income as Rs. 2,33,976/-, Rs. 2,65,958/- and Rs. 33,307/-, respectively. However, the Trial Court, without any cogent basis, observed the monthly income of Rs. two lacs per month. Learned counsel submits that such finding is contrary to the evidence available on record and is not supported by any material evidence. It is, thus, contended that the impugned judgment and order is liable to be set aside by this Court.

9. When confronted with the aforesaid submissions, learned counsel for the wife-revisionist submitted that the Trial Court has, in paragraph 36 of the impugned judgment, observed that the husband-revisionist had an income of Rs. 96,000/- from house property, Rs. 17,040/- from business and Rs. 2,12,978/- from other sources. It is further submitted that in paragraph 29 of the impugned judgment, the Trial Court has recorded that although the revisionist-husband had disclosed his income as Rs. 2,33,770/- for the assessment year 2016-17, Rs. 2,03,540/- for the assessment year 2017-18 and Rs. 27,040/- for the assessment year 2018-19, he had not filed his Income Tax Return for the assessment year 2019-20. It is further observed that during the relevant period, he had earned Rs. 4,68,000/- from his company, namely, Prabhu Precision Private Limited.

10. Learned counsel further submitted that apart from the aforesaid company, the revisionist-husband is also the owner of another company, namely, Tech India Store Security System Company, which is engaged in the sale, purchase and repair of C.C.T.V. cameras, G.P.S. devices, L.E.D.s, L.C.D.s, purifiers, presses, gas appliances, geysers and mixers. On consideration of the aforesaid material, the Trial Court assessed the monthly income of the revisionist-husband at Rs. 2,00,000/-. It is, therefore, contended that the said finding of the Trial Court does not warrant any interference by this Court and if any interference is called for, it ought only to be for enhancement of the amount of maintenance.

11. Having heard the rival submissions of learned counsel for the parties and upon perusal of the record, we find substance in the submissions advanced by learned counsel for the wife-revisionist. The income disclosed by the husband in his Income Tax Returns does not appear to be commensurate with the other material available on record. It is difficult to accept that a person having a monthly income of less than Rs. 20,000/- can establish and operate two Private Limited Companies. Therefore, we do not find any

infirmity in the findings recorded by the Trial Court assessing the monthly income of the husband at Rs. 2,00,000/-. However, having regard to the economic and social status of the husband and the principles laid down by the Supreme Court in **Kalyan Dey Chowdhury** (*supra*), the amount of Rs. 25,000/- per month awarded towards maintenance to the wife appears to be insufficient.

12. Accordingly, Criminal Revision No. 3093 of 2024, preferred by the wife, **succeeds** and is hereby **allowed**, whereas Criminal Revision No. 2914 of 2024, preferred by the husband, is **dismissed**. The impugned judgment and order dated 30.04.2024, passed by the Additional Principal Judge, Family Court No. 2, Muzaffarnagar in Case No. 354 of 2022, Smt. Vishesh Kumari v. Shailendra Singh, is hereby set aside.

13. The matter is remitted to the Trial Court for fresh adjudication. The Trial Court is directed to reconsider and decide the matter afresh, in the light of the observations made hereinabove and in accordance with law. The proceedings before the Trial Court shall be concluded expeditiously, preferably within a period of three months from the date of production of a certified copy of this order.

14. It is further directed that, in the meantime, the revisionist-husband shall continue to make regular monthly payment of Rs. 25,000/- towards maintenance to the revisionist-wife.

September 29, 2026
Brijesh Maurya

(Lakshmi Kant Shukla,J.)