



2026:AHC:56737

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4335 of 2025

Sindhu Saran

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Rajesh Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the revisionist, and the learned A.G.A. for the State. However, No one has appeared on behalf of opposite party nos.2 and 3 even in the revised reading of the list, despite the fact that notice has been served upon opposite party nos.2 and 3 as per the office report dated 18th March, 2026.

2. The instant criminal revision has been preferred against the judgment and order dated 6th June, 2025 passed by the Additional Principal Judge, Family Court, Kushinagar at Padrauna in Maintenance Case No. 459 of 2019 (Guddi Devi & Another Vs. Sindhu Sharan), under Section 125 Cr.P.C., whereby the trial court while allowing the application under Section 125 Cr.P.C. filed by opposite party nos. 2 (wife) and opposite party no.3 (minor daughter) has directed the revisionist to pay Rs. 5,000/- per month to opposite party no.2 (wife) and Rs. 3,000/- per month to opposite party no.3 (daughter) towards maintenance allowance from the date of filing of application under Section 125 Cr.P.C.

3. The contention of the learned counsel for the revisionist is that on one hand, the trial court while passing the impugned judgment, has recorded his finding on issue no. 2 that the revisionist is a healthy person and also has immovable property/landed property from which he must be earning income. The trial court on the basis of such vague finding has awarded total Rs. 8,000/- per month in favour of opposite party nos.2 and 3 towards monthly maintenance allowance which is not the total net income of the revisionist and the same de hors the judgment of the Apex Court in the case of **Rajnish Vs. Neha** reported in (2021) 2 SCC 324. Learned counsel for the revisionist further submits that he is a labourer and also solemnized his second marriage and from the said wedlock two children were born and in that circumstances except the opposite party no.2 he has also liabilities of his second wife and

two children and being a labourer the amount of total maintainable allowance as awarded by the trial court to the tune of Rs. 8,000/- per month is beyond his capacity. On the above premise, learned counsel for the revisionist submits that the aforesaid monthly maintenance allowance as awarded by the trial court is excessive and exorbitant and is not in commensurate with the income of the revisionist, therefore, the impugned judgment is liable to be set aside.

4. On the other-hand the learned A.G.A. has opposed the present criminal revision by submitting that there is no illegality or infirmity in the impugned judgment passed by the trial court so as to warrant any interference by this Court in exercise of revisional jurisdiction.

5. On the above premise, learned A.G.A. submits that since the trial court has not committed any error in passing the impugned judgment, the present criminal revision is liable to be dismissed.

6. Except the above issue, no other issues have been raised by the learned counsel for the parties.

7. Considering the facts and circumstances of the case and the submissions made by the learned counsel for the parties and perusal of record including the impugned judgment passed by the trial court, this Court may record that since only issue has been raised by the learned counsel for the parties, therefore, this Court is not required to examine all the issues which have been raised before the trial court.

8. It is an admitted position that the opposite party no.2 is the legally wedded wife of the revisionist whereas opposite party no.3 is his real daughter. So far as the separate living of the opposite party no.2 from her husband i.e. revisionist is concerned, the trial court has recorded categorical findings of fact for coming to the conclusion that the opposite party no.2 has sufficient cause to live separately from the revisionist along with her sons.

9. Qua the income of the opposite party no.2, from the perusal of the impugned judgment, it transpires that there is nothing on record to establish that she is a working lady and she has any source of income in order to maintain herself. The trial court has also opined that opposite party no.2 has no source of income.

10. On perusal of the aforesaid findings returned by the trial court while passing the impugned judgment, this Court finds that the trial court has recorded categorical finding of facts on the above issue. 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.

11. So far as total income of the revisionist is concerned, this Court finds that on one hand the opposite party no.2 claimed before the trial court that the revisionist along with his brothers has built a house and three shops at Derwa intersection, one of which is a medical store, the second is a clothes shop and the third is a flour mill and oil pan business, from which he earns a total of Rs 1.5 lakh per month. However, for establishing the said claim, opposite party no.2 has not produced any documentary or oral evidence before the trial court. On the other-hand, revisionist claims to be a labourer. It is admitted on record that before the trial court, when no documentary evidence has been adduced by the opposite party no.2 or by the revisionist qua the net exact monthly income of the revisionist. The trial court while deciding issue no.2 has recorded his finding that the revisionist is a healthy person and he has immovable property from which he earns handsome money and the basis of such vague finding, the trial court has awarded total Rs. 8,000/- per month in favour of opposite party nos. 2 and 3, which cannot be accepted by this Court.

12. The Hon'ble Supreme Court of India in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324 has opined that since it is the sacrosanct duty of the husband to provide financial support to the wife and his children, the husband is required to earn money even by physical labour, if he is able-bodied, and cannot not avoid his obligation.

13. Considering the fact that there is no evidence as to what is the exact monthly income of the revisionist and keeping in mind the present inflation, cost of food, cloths, medical expenses, this Court is constrained to presume that the revisionist being able bodied person and labourer, he would earn Rs. 700/- per day and in that circumstance, his total monthly net income would be Rs. 21,000/- per month.

14. The Hon'ble Supreme Court of India in the cases of **Rajnesh Vs. Neha** (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.

15. In the opinion of the Court the maintenance allowance awarded by the trial court in favour of opposite party nos. 2 and 3 to the tune of Rs. 8,000/- per month in total is excessive, exorbitant and not commensurate with the 25% of the present net income of the revisionist and the same is liable to be reduced to Rs. 5,250/- per month from Rs. 8,000/- per month as 25% of the total income of the revisionist i.e. Rs. 21,000/- per month as quantified by this Court herein above is 5,250/- per month. In such circumstances, normally this Court would have remanded the instant matter under Section 125 Cr.P.C. to the trial court for deciding afresh, but looking to the huge pendency before the trial court and also for saving the precious time of the trial court, this Court is proceeding to modify the impugned judgment.

16. Keeping in view of the income of revisionist as well as guidelines issued by the Hon'ble Apex Court in **Rajnish v. Neha and Kulbhushan Kumar (Dr) (Supras)**, this court is of the considered opinion that the amount of maintenance allowance awarded by the trial court is not commensurate and is highly excessive as per the law laid down by the Hon'ble Supreme Court in the aforesaid cases , hence, the same is reduced to Rs. 5,250/- per month from Rs. 8,000/- per month and the same shall be payable from the date of filing of application under Section 125 Cr.P.C.

17. Consequently, judgment and order dated 6th June, 2025 passed by the Additional Principal Judge, Family Court, Kushinagar at Padrauna in Maintenance Case No. 459 of 2019 (Guddi Devi & Another Vs. Sindhu Sharan), under Section 125 Cr.P.C. is modified to the extent that now the revisionist shall pay Rs. 3,000/- per month to opposite party no. 2 (wife) and Rs. 2,250/- per month opposite party no.3 (daughter) towards maintenance allowance from the date of filing of application under Section 125 Cr.P.C. It would be too harsh for the revisionist to pay the total amount of arrears of maintenance allowance to the revisionist from the date of filing of application, this Court, therefore, provides that the revisionist shall pay the same in 10 equal monthly installments. The first installment shall commence from 15th April, 2026.

18. It is also clarified that the arrears of amount towards maintenance allowance as awarded by the court below shall be calculated on the basis of amount of maintenance allowance as fixed by this Court herein above and after that if it is found that any amount has been paid in excess, the same shall be adjusted from the amount to be paid.

19. It is further provided that as and when the net monthly income of the revisionist is increased, it shall always be open for the opposite party no.2 to make an appropriate application under Section 127 Cr.P.C. for enhancement

of the above monthly maintenance allowance.

20. The present criminal revision is, accordingly, **partly allowed.**

21. There shall be no order as to costs.

March 19, 2026
Sushil/-

(Madan Pal Singh,J.)