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HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6468 of 2024

Rinki

.....Revisionist(s)

Versus

State Of U.P. And 8 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Kailash Nath Singh
Counsel for Opposite Party(s)	:	G.A.

Reserved on : 20.03.2026

Delivered on : 15.05.2026

Court No. - 81

HON'BLE HARVIR SINGH, J.

1. Heard learned counsel for the revisionist, learned A.G.A. for the State and perused the record.
2. It is in this background that the order dated 27.10.2023 passed by learned Civil Judge (J.D.) / F.T.C./Domestic Violence Act, Jaunpur in Case No. 1317 of 2021 (Rinki vs. Prasun), under Section 12 of Protection of Women from Domestic Violence Act, 2005. By the said order dated 27.10.2023, the learned Civil Judge (J.D.) / F.T.C./ Domestic Violence Act directed that the opposite parties shall not commit any domestic violence against the revisionist (herein) as provided under Section 18 of the Domestic Violence Act. However, the learned Civil Judge (J.D.) / F.T.C./ Domestic Violence Act directed the opposite parties to pay a sum of Rs. 2,000/- in lieu of accommodation to be provided to the revisionist and further directed that a sum of Rs. 2,500/- to be paid to the revisionist as monthly maintenance. The said order was passed under Section 12 of Protection of Women from Domestic Violence Act, 2005. The revisionist has also challenged the order dated 2.8.2024 passed by learned Additional Sessions Judge-IV, Jaunpur.
3. Aggrieved by the order dated 27.10.2023, the revisionist (herein) filed an appeal bearing No. 147 of 2023 (Rinki vs. Prasun and others), seeking modification of the order dated 27.10.2023 to the extent that the amount

of rent of Rs. 2,000/- be enhanced proportionately and commensurate with the accommodation, the revisionist was residing at the time of her marriage and the amount of Rs. 2,500, which was awarded as monthly maintenance, be further enhanced to Rs. 20,000/-.

4. On the other hand, opposite party no. 2 namely, Prasun also moved an appeal bearing No. 148 of 2023 (Prasun vs. State of U.P. and another), seeking setting aside the order dated 27.10.2023 passed by learned Civil Judge (J.D.) / F.T.C. Domestic Violence Act. The applicant in Appeal No. 147 of 2023 (Rinki vs. Prasun and others) submitted that the order passed by learned Civil Judge (J.D.) / F.T.C./ in Domestic Violence Act is not in accordance with law and the amount of maintenance (Rs. 25,00/-) and the rent in lieu of accommodation (Rs. 2000/-) is on the minimum side, as the requirements of the revisionist for day to day expenditure have gone up, as the revisionist has not been provided any accommodation and prayed that the order dated 27.10.2023 passed by learned Civil Judge (J.D.)/ F.T.C./ Domestic Violence Act was liable to be modified to the extent that the amount of maintenance be enhanced to Rs. 20,000/-. The revisionist appeared before the appellate Court, i.e. the Additional District and Sessions Judge and submitted that opposite party no. 2 and others are having adequate sources of income, as they are having sufficient accommodation in Jaunpur and flats in Mumbai, as well as agricultural land, and therefore, they are earning a substantial amount, and the amount of maintenance is liable to be enhanced to Rs. 20,000/-.

5. On the other hand, learned counsel appearing on behalf of opposite party no. 2 (herein) in Appeal No. 148 of 2023 (Rinki vs. State of U.P. and others) submitted that the order passed by learned Civil Judge (J.D.) / F.T.C. is illegal and the amount of maintenance is beyond the resources of opposite party no. 2 and while passing the order dated 27.10.2023, the learned Civil Judge (J.D.) / F.T.C. has arrived at arbitrary findings. Learned counsel for the opposite party no. 2 further submitted that the order dated 27.10.2023 is an ex-parte order and the same is liable to be set aside, as the opposite party no. 2 was not afforded any opportunity of hearing.

6. After hearing both the parties, the learned Appellate Court, i.e.

Additional District & Sessions Judge passed the order in following manner :-

(i) The appeal No. 147 of 2023 (Rinki vs. State of U.P. and others) was dismissed.

(ii) Similarly, Appeal No. 148 of 2023 was allowed by setting aside the order dated 27.10.2023 passed by learned Civil Judge (J.D.) / F.T.C. However, the order dated 27.10.2023 being an *ex-parte* order was set aside, subject to payment of cost or Rs. 20,000/- to be paid to the revisionist (herein).

(iii) Consequently, being aggrieved by the order dated 27.10.2023 passed by learned Civil Judge (J.D.) / F.T.C. and the order dated 2.8.2024 passed by learned Additional Sessions Judge, the present revision has been filed.

7. Having considered the rival contentions and the fact that the order dated 27.10.2023 is an *ex-parte* order, wherein opposite party no. 2 and others did not participate in the proceedings, that is why Appeal No. 148 of 2023 was allowed to the extent that *ex-parte* order dated 27.10.2023 was set aside with the cost of Rs. 20,000/- and therefore, whatever relief was granted by the Civil Judge (J.D.) / F.T.C., vide order dated 27.10.2023, the same also stands set aside.

8 Without going into the entire merits of the case, the order dated 27.10.2023 is an *ex-parte* order, which has been set aside by the learned Additional Sessions Judge but by setting aside the order dated 27.10.2023 the relief granted to the revisionist (herein) has also come to the ground. However, in the given facts and circumstances of the case, it is directed that the order dated 27.10.2023 is modified to the extent that the revisionist (herein) shall continue to receive a sum of Rs. 2,000/- in lieu of accommodation and Rs. 2,500/- as monthly maintenance in the form of interim maintenance till final order passed by a competent Court, i.e. Civil Judge (J.D.) / F.T.C. and the order dated 2.8.2024 is set aside, but also modified to the extent that the amount of cost, which was to be paid to the revisionist (herein) shall be paid by the opposite parties and once the cost is being paid, the opposite party no. 2 shall participate in the proceedings before learned Civil Judge (J.D.) / F.T.C. but the revisionist (herein) shall

continue to receive a sum of Rs. 2,000/- as interim rent and a sum of Rs. 2,500/- as interim maintenance till final disposal of the Petition No. 1317 of 2021 and the learned Civil Judge (J.D.)/ F.T.C. shall pass an order in accordance with law and also in terms of the order passed by Hon'ble Supreme Court in the case of ***Shamima Farooqui vs. Shahid Khan*** passed in Criminal Appeal Nos. 564-565 of 2015 (Arising out of SLP (Crl.) Nos. 6380-6381 of 2014), decided on 06.04.2024 and in the case of ***Kalyan Dey Chowdhury vs. Rita Dey Dhowdhury Nee Nandy*** passed in Civil Appeal No. 5369 of 2017 (Arising out of SLP (C) No. 34653 of 2016), decided on 19.04.2017, in which it has been held that even if the amount of monthly maintenance is to be fixed, the same may be as 1/4th of the salary of the employee, the same shall suffice and is presumed to be adequate. It has also been provided that revisionist will have an opportunity to assail the order in accordance with law, if still aggrieved by any final order passed by learned concerned Court.

9. Apart from the above, learned counsel for the revisionist submitted that the scheme of Family court provides that all matters pertaining to the maintenance in respect of women and children to be integrated and combined within the scheme of family court and laid reliance upon the judgment passed by Hon'ble Supreme Court in the case of ***Rajnesh vs. Neha, AIR 2021 Supreme Court 569, AIRONLINE 2020 SC 915***. In the case of ***Rajnesh vs. Neha (supra)***, the Hon'ble Supreme Court has held that it shall remain open to both the parties, i.e revisionist and the opposite party to adduce oral, as well as documentary evidence in respect of the income and source of income.

10. With the aforesaid observation the revision stands disposed of.

(Harvir Singh,J.)

May 15, 2026
Faridul