2025:UHC:10067

**Reserved on 28.10.2025**

**Delivered on 14.11.2025**

# IN THE HIGH COURT OF UTTARAKHAND

# AT NAINITAL

**Criminal Revision No.235 of 2025**

Smt. Annu Sharma alias Swati .....Revisionist

Vs.

State of Uttarakhand & Another .....Respondents

**With**

**Criminal Revision No.257 of 2025**

Nitin Sharma .....Revisionist

Vs.

State of Uttarakhand & Another .....Respondents

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**Presence:-**

1. Mr. D. C. S. Rawat, learned counsel for the Revisionist in CRLR No.257 of 2025 and learned counsel for the Respondent no.2 in CRLR No.235 of 2025.
2. Mr. Kaushal Sah Jagati and Mr. Yogesh Upadhyay, learned counsel for the Revisionist in CRLR No.235 of 2025 and learned counsel for the Respondent no.2 in CRLR No.257 of 2025.
3. Mr. S. S. Chauhan, learned D.A.G. assisted by Mr. Vikash Uniyal, learned Brief Holder for the State.

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**Hon'ble Ashish Naithani, J.**

The present two criminal revisions arise out of the

same order dated 25.02.2025 passed by the learned Additional Principal Judge, Family Court, Kashipur, District Udham Singh Nagar, in Misc. Criminal Case No. 82 of 2019 filed under Section 125 of the Code of Criminal Procedure.

2. The marriage between Smt. Annu Sharma alias Swati and Dr. Nitin Sharma was solemnized on 04.02.2018. Subsequently, matrimonial disputes arose between them, leading the wife to file an application under Section 125 CrPC on 06.04.2019 seeking maintenance.

3. The Family Court, by its order dated 25.02.2025, granted interim maintenance of ₹20,000/- per month in favour of the wife, but directed that the same would be payable from the date of the order and not from the date of the application.

4. Aggrieved by the above order, Smt. Annu Sharma alias Swati has preferred Criminal Revision No. 235 of 2025, seeking modification so that maintenance is made payable from the date of application (06.04.2019).

5. Conversely, Dr. Nitin Sharma has preferred Criminal Revision No. 257 of 2025, challenging the quantum

of maintenance, contending that the amount of ₹20,000/- per month is excessive and not commensurate with his income and financial obligations.

6. Learned Counsel for the Revisionist, Smt. Annu Sharma alias Swati, appearing in Criminal Revision No. 235 of 2025, submitted that the learned Family Court has committed a manifest error in directing that interim maintenance shall be payable from the date of the order, instead of from the date of the application. It was contended that such a direction defeats the very object and purpose of Section 125 of the Code of Criminal Procedure, which is intended to provide immediate relief to a spouse who is unable to maintain herself and to prevent destitution and vagrancy.

7. Learned Counsel further argued that the application under Section 125 CrPC was filed on 06.04.2019 and remained pending for nearly six years before the impugned order came to be passed on 25.02.2025. During this entire period, the Revisionist had no independent source of income and was dependent on her parental family for sustenance. Hence, restricting the benefit of maintenance

to the date of the order causes grave prejudice and undermines the beneficial nature of the statute.

8. It was further urged that the learned Family Court has wrongly taken into account the fact that the husband had earlier made payment of arrears pursuant to an ex parte interim order, which was subsequently set aside, as a ground for denying the benefit of maintenance from the date of application. Such a reasoning, it was submitted, is neither legally sustainable nor logically relevant, as those payments were made under a different interim arrangement that no longer holds the field.

9. Learned Counsel relied upon the decision of the Hon'ble Supreme Court in **"Rajnesh v. Neha"**, (2021) 2 SCC 324, wherein it has been authoritatively held that maintenance should ordinarily be granted from the date of the application unless the Court records specific reasons for granting it from a later date. It was argued that in the present case, the Family Court has recorded no such reasons and has thus acted contrary to the settled law. Learned Counsel, therefore, prayed that the impugned order be modified to the limited extent that interim maintenance of

₹20,000/- per month be made payable from 06.04.2019, the date of the original application.

10. In Criminal Revision No. 257 of 2025, learned Counsel for the Revisionist, Dr. Nitin Sharma, assailed the impugned order to the extent it fixed the interim maintenance at ₹20,000/- per month, contending that the same is excessive, arbitrary, and not supported by any objective assessment of the husband's income and financial capacity. Learned Counsel for Nitin Sharma submitted that the learned Family Court has mechanically fixed the quantum without proper consideration of the disclosure of assets and liabilities filed by the husband in compliance with the directions issued in 'Rajnesh v. Neha'.

11. Learned Counsel for Nitin Sharma further submitted that the wife is professionally qualified, being a trained nurse holding a GNM diploma, and is therefore capable of maintaining herself. It was contended that this aspect has been completely overlooked by the Family Court, which proceeded on an erroneous assumption that the wife is entirely dependent. It was further urged that the Revisionist-husband has to bear several financial

obligations, including repayment of loans and family responsibilities, which were duly brought to the notice of the Court but not given due weightage.

12. Learned Counsel for Nitin Sharma also pointed out that the earlier interim order granting maintenance of ₹7,000/- per month was complied with in full, and the arrears were duly cleared. However, the Family Court, while passing the present order, failed to give due credit to these payments or to consider the hardship caused by cumulative arrears. It was thus submitted that the impugned order is vitiated by non-application of mind and calls for interference by this Court in exercise of its revisional jurisdiction.

13. On these premises, learned Counsel for Nitin Sharma prayed that the order dated 25.02.2025 be set aside or suitably modified to reduce the quantum of interim maintenance to a reasonable sum commensurate with the husband's income and means.

14. Heard learned counsel for the parties and perused the records.

15. At the outset, it is to be noted that the revisional

jurisdiction of this Court under Sections 397 and 401 CrPC is limited in scope. Interference is warranted only where the impugned order suffers from patent illegality, procedural irregularity, or perversity of approach resulting in miscarriage of justice. The revisional court does not sit in appeal over the findings of the subordinate court, nor can it re-appreciate evidence to substitute its own view on the merits, particularly when the order pertains to interim maintenance, which is discretionary and temporary in nature.

16. Insofar as the quantum of interim maintenance is concerned, the Family Court has fixed the amount at ₹20,000/- per month. The learned Judge has broadly taken into account the standard of living of the parties, the social background, and the financial disclosures on record. The learned Counsel for Nitin Sharma has contended that the quantum is excessive and beyond his means, asserting that he is already burdened with loan liabilities and family responsibilities. However, a perusal of the impugned order reveals that the Family Court has not acted mechanically but has arrived at the figure upon an overall appreciation of

the material placed on record. The order does not show any patent perversity or non-consideration of relevant factors warranting interference in revision.

17. It is a settled proposition that maintenance awarded under Section 125 CrPC is not a matter of charity but a measure of social justice intended to prevent vagrancy and destitution. The Court must balance the means of the husband with the needs of the wife, ensuring that she can live in reasonable comfort consistent with her status and lifestyle during the subsistence of marriage. At the stage of interim maintenance, the Court is not expected to conduct a detailed inquiry or adjudicate upon rival financial claims with exactitude. What is required is a broad evaluation to prevent hardship during the pendency of proceedings. Viewed in this perspective, the quantum of ₹20,000/- per month cannot, on the face of it, be said to be arbitrary or oppressive so as to justify interference.

18. The contention of learned Counsel for Nitin Sharma that the wife is professionally qualified and capable of earning her livelihood does not, by itself, disentitle her to claim maintenance. The right to maintenance is not

dependent merely on academic qualification or theoretical employability but on the actual ability to secure and sustain gainful employment. No credible material has been placed to demonstrate that the wife is presently engaged in remunerative work or earning a substantial income. Consequently, the finding of the Family Court that she requires financial assistance for sustenance cannot be said to be perverse.

19. As regards the commencement date of interim maintenance, the Family Court has directed payment from the date of the order without assigning any specific reason for not making it effective from the date of the application. The Hon'ble Supreme Court in **"Rajnesh v. Neha"**, (2021) 2 SCC 324, has categorically held that maintenance should ordinarily be awarded from the date of application unless the Court, for recorded and cogent reasons, decides otherwise. The rationale behind this principle is to ensure that a claimant is not left uncompensated for the period during which the petition remained pending in court through no fault of the applicant.

20. In the present case, the application under Section

125 CrPC was instituted on 06.04.2019 and was finally decided on 25.02.2025. The delay of nearly six years cannot be attributed to the wife alone. The record does not disclose any deliberate inaction or latches on her part that would justify depriving her of maintenance for the entire intervening period. The reason given by the Family Court that the husband had already paid arrears under an earlier set-aside order does not amount to a legally sustainable ground to postpone the commencement date, as those payments pertained to a distinct interim arrangement which ceased to operate upon setting aside.

21. The object of Section 125 CrPC being preventive and remedial, the Court is duty-bound to adopt an interpretation that furthers the legislative intent rather than defeats it. The direction limiting the benefit to the date of order thus fails to conform to the ratio of Rajnesh v. Neha and undermines the protective purpose of the provision. This Court, therefore, finds merit in the submission of learned Counsel for Smt. Annu Sharma alias Swati that the interim maintenance ought to run from the date of her application, i.e., 06.04.2019.

22. In view of the foregoing discussion, this Court finds no reason to interfere with the quantum of interim maintenance fixed by the Family Court. However, the direction restricting payment from the date of the order calls for modification to align with the law declared by the Hon'ble Supreme Court. The Family Court's order is therefore liable to be modified to the limited extent that the interim maintenance of ₹20,000/- per month shall be payable from the date of the wife's application, i.e., 06.04.2019, subject to adjustment of amounts already paid.

**ORDER**

Both revisions arise from the common order dated 25.02.2025 passed by the learned Additional Principal Judge, Family Court, Kashipur, District Udham Singh Nagar, in Misc. Criminal Case No. 82 of 2019 under Section 125 CrPC, and are disposed of together.

Criminal Revision No. 257 of 2025 filed by Dr. Nitin Sharma is dismissed. The quantum of interim maintenance fixed at ₹20,000/- per month requires no interference at this stage.

Criminal Revision No. 235 of 2025 filed by Smt. Annu Sharma, alias Swati, is **partly allowed**. The impugned order is modified to the extent that interim maintenance shall be payable from 06.04.2019, the date of her application, subject to adjustment of any amount already paid.

The arrears arising out of this modification shall be cleared by Dr. Nitin Sharma within six months, in equal monthly installments, in addition to the current maintenance.

**(Ashish Naithani, J.)**
14.11.2025

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