HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 33 of 2024

Devendra Singh

.....Revisionist(s)

Versus

State Of Up Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Shams Uz Zaman
Counsel for Opposite Party(s)	:	Avinash Kumar Sharma, G.A.

Court No. - 84

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Even thought the names of Mr. Shams Uz Zaman, is duly published in the cause list as counsel for revisionist but neither he nor any one on his behalf appears to press this revision even in revised call.

2. Learned AGA for State is present.

3. In view of the above, the present revision is being disposed of with the aid of learned AGA for the State and pperusal of the record.

4. Revisionist has approached this court by means of present criminal revision assailing the impugned judgement and order dated 27.10.2023 passed by Additional Principal Judge, Family Court, Meerut (herein after referred as to "the Trial court") in Case No. 595 of 2019 (Smt. Archana and others vs. Devendra Singh) wherein the trial court partly allowed the application under Section 125 Cr.P.C. filed by the revisionist and ordered the revisionist to pay Rs. 5,000/- each, to opposite party no. 2, 3 and 4 per month as maintenance from the date of filing of maintenance petition..

5. Feeling aggrieved from the aforesaid order of maintenance, the present criminal revision has been filed on the grounds that the impugned order

passed by the trial court is wholly illegal, un-reasoned and based on surmises and conjectures, without applying the judicial mind and the impugned order is against the material available on record. In the aforesaid conspectus, a prayer for allowing the present criminal revision and setting aside the impugned order has been made.

6. Learned A.G.A. submits that the order passed by trial court is lawful and justified. The trial court has given finding while deciding the point no. 5 the trial court has not ascertained the income of revisionist and the trial court has ascertained the income of revisionist on the basis of application filed by opposite party No. 2, in which she has stated that father of the revisionist has owned 30 bighas of land, out of which 1/4 share has been owned by the revisionist, but no certain evidence on record regarding certain income of the revisionist. The trial court has mentioned that the revisionist is healthy person and bound to maintain his wife and children. Only on the basis of aforesaid fact fixed the amount of Rs. 15,000/- per month at the time of passing of the order of maintenance. The trial court would have ascertained the monthly income of the revisionist is about 50,000-60,000/- per month which cannot be disputed that the revisionist has been earning the aforesaid amount despite having no specific employment or business work and it can not be ignored by the court while adjudicating the amount of maintenance. In view of the aforesaid fact, the present criminal revision may be dismissed by this court.

7. Having heard the rival submissions of learned AGA and upon perusal of record. It is provided in the case of **Rajnesh vs. Neha and another**, **(2021) 2 SCC 324, the Apex Court** held that the maintenance may be

allowed from the date of application. Para 113 of the Judgement is quoted herein below:

*"**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. "*

Before passing the interim order, the trial court must ascertain the income of the husband, thus, the trial court has not ascertained the income of the revisionist and passed impugned order, therefore, the impugned order is contrary as held by Hon'ble Apex Court in Rajnesh *(Supra)*.

8. Accordingly, the present criminal revision succeeds and is hereby allowed. The impugned order dated 27.10.2023 passed by Additional Principal Judge, Family Court, Meerut, in Case No. 505 of 2019, under Section 125 Cr.P.C. is hereby set aside.

9. The Matter is remitted to the trial court to adjudicate the matter and pass afresh order in the light of observations made in the case of Rajnish (supra), preferably within three months from the date of production of certified copy of this order.

October 29, 2026
v.k. updh.

(Lakshmi Kant Shukla,J.)

Digitally signed by :-
VINOD KUMAR UPADHYAY
High Court of Judicature at Allahabad