HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6577 of 2024

Ravi Sharma

.....Revisionist(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Jay Prakash Pandey, Umesh Chandra Tiwari
Counsel for Opposite Party(s)	:	G.A., Ranjeet Singh

Court No. - 84

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Even thought the names of Mr. Jay Prakash Pandey and Mr. Umesh Chandra Tiwari, learned counsel for the revisionist and Mr. Ranjeet Singh, learned counsel for opposite party no. 2 are duly published in the cause list but neither they nor any one on their behalf appears to press or oppose this revision as the case may be even in revised call.

2. Learned AGA for State is present.

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

4. Revisionist has approached this court by means of present criminal revision assailing the impugned judgement and order dated 06.09.2024 passed by Principal Judge, Family Court, Bareilly (herein after referred as to "the Trial court") in Crl. Case No. 1719 of 2021 (Smt. Poonam Sharma and others vs. Ravi Sharma), wherein the trial court partly allowed the application under Section 125 Cr.P.C. filed by the opposite party no. 2 and ordered the revisionist to pay Rs. 4,000/- to opposite party no. 2 and Rs. 2,500/- each to opposite party no. 3 and 4 per month as

maintenance.

5. Feeling aggrieved from the aforesaid order of maintenance, the present criminal revision has been filed on the grounds that the impugned order has been passed is an illegal and arbitrary manner and without applying the judicial mind and not based on any admissible piece of evidence. The impugned order is against the material available on record. It is wholly illegal, arbitrary and based upon misconception of 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. Per contra, learned A.G.A. for the State has vehemently opposed the present criminal revision and submitted that the trial court before passing the impugned order also given finding and observed that opposite party no. 2 is wife and opposite party nos. 3 and 4 are children of the revisionist. The revisionist has not paid any amount towards the maintenance of opposite party no. 2 nor deposited any fees on behalf of opposite party no. 3 and 4. The aforesaid order of maintenance has been passed on the basis of admission made by the revisionist that he earns Rs. 8,000/- per month. He has further admitted that the property in question owned by his father. Learned AGA has further submitted that the revisionist is responsible to maintain opposite party no. 2, 3 and 4 and his father cannot be held liable to pay maintenance to opposite party no. 2, 3 and 4. Accordingly, the maintenance amount is just and proper in accordance with law. In view of the aforesaid premise, the present criminal revision may be dismissed by this court.

7. Having heard the rival submissions and perusal of record, this Court finds that the trial court has passed maintenance order directing the revisionist to pay Rs. 9,000/- per month aggregate

against the monthly income of Rs. 8,000/- as admitted by the revisionist. No certain income of revisionist from any specific source could be established by opposite party no. 2, 3 & 4 accordingly, the trial court has passed as such order, which is not executable under economic conditions of the revisionist as well as such order in against the principles laid down by Apex Court in its judgment i.e. **Rajnesh vs. Neha and another, (2021) 2 SCC 324** and **Kalyan Dey Chaudhary vs. Rita Dey Chaudhary Nee Nandy (2017) 14 SCC 200**, therefore, the revisionists has shown sufficient reason to allow the revision.

8. Accordingly, the present criminal revision succeeds and is hereby allowed. The impugned order dated 06.09.2024 passed by Additional Principal Judge, Family Court, Court No. 1, Bareilly, in Case No. 1719 of 2021, under Section 125 Cr.P.C. is hereby set aside.

9. The matter is remitted to the trial court concerned and the trial court is directed to pass a fresh order in accordance with law in respect of amount of maintenance after duly considering the income of revisionist, within a period of **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