



2025:AHC:206396

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3510 of 2024

Sri Hiralal

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Chakshuvendra Pachauri
Counsel for Opposite Party(s)	:	Atul Pandey, G.A.

Court No. - 89

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Chakshuvendra Parhauri, learned counsel for the revisionist, Sri Atul Pandey, learned counsel for opposite party no. 2, and the learned A.G.A. for the State.
2. This criminal revision has been filed by the revisionist seeking to set aside the order dated 16-05-2024 passed by the learned Additional Principal Judge, Family Court, Pilibhit in Case No. 261 of 2019 (Smt. Kamla Devi vs. Sri Hiralal), under Section 125 Cr.P.C., whereby the learned Trial Court directed the revisionist to pay Rs. 5,000/- per month from the date of the application.
3. Learned counsel for the revisionist submitted that the revisionist completed his L.L.B. in the year 2016 and is preparing for competitive examinations. It is further submitted that he has started his practice in the District Court under the guidance of senior counsel, and his income is highly uncertain. Sometimes he earns Rs. 300–400/- per day and sometimes he does not earn anything at all, making it extremely difficult for him to meet even his basic livelihood expenses.
4. Learned counsel for opposite party no. 2 as well as the learned A.G.A. opposed the prayer and contended that the revisionist is a practicing lawyer in the District Court and earns a handsome income. It is further submitted that the revisionist is the owner of 8

bighas of land and two houses, and from the rent of these houses he is easily earning more than Rs. 50,000/- per month. Considering the present inflation, the amount awarded by the learned Trial Court cannot be said to be excessive or beyond the capacity of the revisionist. It was further submitted that the revision lacks merit and is liable to be dismissed.

5. Considering the facts and circumstances of the case, the submissions of learned counsel for the parties, and the record of the case including the impugned order, it is an admitted fact that opposite party no. 2 is the legally wedded wife of the revisionist. As regards the income of the revisionist, it is admitted that he completed his L.L.B. in 2016, is preparing for competitive examinations, and has recently started practicing under the guidance of a senior lawyer. His income is uncertain and fluctuating, and there is no documentary evidence on record regarding any stable or regular income. It is a matter of common knowledge that most lawyers at the initial stage of practice in district courts struggle to earn sufficient income and often face severe financial hardship. The revisionist has stated that sometimes he earns Rs. 300–400/- per day, and sometimes he earns nothing. In the absence of any reliable material showing a fixed or stable income, and keeping in view the principles laid down by the *Hon'ble Supreme Court in Rajnesh vs. Neha (2021) 2 SCC 324; Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy, AIR 2017 SC 2383; and Kulbhushan Kumar vs. Raj Kumari, (1970) 3 SCC 129*, the amount of maintenance must be reasonable and proportionate to the paying capacity of the husband.
6. In view of the above, this Court is of the opinion that the maintenance amount of Rs. 5,000/- per month awarded to opposite party no. 2 from the date of the application is not commensurate with the uncertain and fluctuating income of the revisionist. It is true that it is the legal obligation of a husband to maintain his wife, but the amount of maintenance must be reasonable and within his financial capacity. Therefore, the maintenance awarded by the Court below appears to be excessive and deserves to be modified. Accordingly, the amount of maintenance is reduced to Rs. 3,750/-

per month from the date of the application.

7. Accordingly, the present criminal revision is **partly allowed**. The amount of maintenance is reduced from Rs. 5,000/- per month to Rs. 3,750/- per month from the date of the application.
8. It is made clear that the amount of maintenance shall be calculated on the basis of the present order. If the revisionist has already paid any amount towards maintenance, the same shall be duly adjusted. If any arrears remain unpaid, the revisionist shall pay the same in fifteen equal monthly instalments. The first instalment shall be paid on or before 20th December, 2025, and the remaining instalments shall be paid on or before the fourteenth day of each succeeding calendar month.

(Madan Pal Singh,J.)

November 19, 2025

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