



2025:AHC:204902

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4542 of 2024

Shailesh Kumar Yadav

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Gauri Shankar Yadav, Imran Syed,
Santosh Yadav

Counsel for Opposite Party(s) : G.A., Yogeshwar Rai

Court No. - 89

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Gauri Shankar Yadav, learned counsel for the revisionist, Sri Yogeshwar Rai, learned counsel for Opposite Party No.2, learned A.G.A. for the State, and perused the record.
2. This criminal revision has been filed by the revisionist seeking to set aside the order dated 01-08-2024 passed by the learned Principal Judge, Family Court, Ballia in *Criminal Misc. Case No. 1044 of 2021* (Smt. Meena Devi vs. Shailesh Kumar Yadav) under Section 125 Cr.P.C., whereby the revisionist was directed to pay maintenance of Rs.18,000/- per month to Opposite Party No.2 with effect from the date of filing of the application under Section 125 Cr.P.C.
3. The sole argument advanced by the learned counsel for the revisionist is that the revisionist has performed a second marriage with the consent of Opposite Party No.2 and also bears the liability of three children born out of the second wedlock. Hence, it is contended that the amount of maintenance awarded by the Court below is excessive, exorbitant, and not commensurate with the income of the revisionist.
4. On the other hand, learned counsel for Opposite Party No.2 submitted that the revisionist is a Sub-Inspector in U.P. Police and has himself admitted in his affidavit that his income is Rs.65,000/-

per month, whereas his actual salary is much higher as disclosed in the affidavit. Learned counsel for Opposite Party No.2 vehemently opposed the submissions made on behalf of the revisionist and submitted that, keeping in view the present scenario and the cost of living, the amount of Rs.18,000/- per month awarded by the Trial Court cannot be considered excessive. Hence, the impugned order passed by the Trial Court does not call for interference by this Court.

5. Considering the overall facts and circumstances of the case, and upon hearing the submissions of the learned counsel for the parties as well as the learned A.G.A., it stands admitted that Opposite Party No. 2 is the legally wedded wife of the revisionist, and their marriage was duly solemnized on 21.12.2021 according to Hindu rites and rituals. With regard to the income of the revisionist, the income certificate placed before the learned Trial Court reflected his income as Rs. 65,000/- per month at the time of adjudication of the application under Section 125 Cr.P.C., though his present income is approximately Rs. 1,20,000/- per month. In view of the principles laid down by the Hon'ble Supreme Court in *Rajnesh v. Neha* (2021) 2 SCC 324, *Kalyan Dey Chowdhury v. Rita Dey Chowdhury nee Nandy*, AIR 2017 SC 2383, and *Kulbhushan Kumar v. Raj Kumari* (1970) 3 SCC 129, it is well settled that maintenance may be granted up to 25% of the husband's net income, and calculated on the basis of Rs. 65,000/- as considered by the Trial Court, 25% comes to Rs. 16,250/- per month, which substantially aligns with the maintenance awarded by the learned Trial Court.
6. The revisionist/husband is an able-bodied person and, therefore, cannot shirk his legal obligation to maintain his wife and child. The maintenance of Rs.18,000/- per month awarded by the Trial Court cannot be said to be excessive; in fact, it is on the lower side. Hence, the impugned order passed by the Trial Court does not warrant interference by this Court.
7. Before imparting the judgment, this Court has observed that several judgments passed by the learned Trial Court have been decided without framing any points for determination. A perusal of the

record further shows that the Trial Court decided the Section 125 Cr.P.C. application without framing any points for determination, which is mandatory as per Section 354(6) Cr.P.C. This provision requires that every order under Section 117 or sub-section (2) of Section 138, and every final order made under Section 125, Section 145, or Section 147, shall contain the point or points for determination, the decision thereon, and the reasons for the decision. It is clarified that in the absence of framing any points for determination, it is difficult to ascertain the basis on which the Trial Court passed the order or awarded the maintenance amount.

8. Accordingly, the present criminal revision is dismissed.
9. Let a copy of this order be circulated to all the District Judges through the **Registrar (Compliance)** and to all Principal Judges, Family Courts, for communication and necessary compliance.

(Madan Pal Singh,J.)

November 17, 2025
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