



A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 223 of 2024

████████████████████

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : S.P.S. Chauhan, Smt. Meenakshi Chauhan

Counsel for Opposite Party(s) : Abhinav Singh, G.A., Santosh Kumar Upadhyay, Vinod Kumar Upadhyay

WITH

CRIMINAL REVISION No. - 51 of 2024

████████████████████

.....Revisionist(s)

Versus

State Of Up Others

.....Opposite
Party(s)

Counsel for Revisionist(s) : Anish Kumar Singh, Desh Ratan Chaudhary, Mukesh Chandra Gupta, Santosh Kumar Upadhyay, Shubham Prakash Gupta, Vinod Kumar Upadhyay

Counsel for Opposite Party(s) : G.A., S.P.S. Chauhan, Smt. Meenakshi Chauhan

RESERVED

In Chamber

HON'BLE DR. AJAY KUMAR-II, J.

1. Heard learned counsel for revisionists, learned counsel for opposite party no. 2, learned Additional Government Advocate for the State and perused the record.

2. Criminal Revision No. 223 of 2024 has been filed by the ██████████ (wife) against the impugned order dated 01.12.2023 passed by Additional Principal Judge, Family Court, Court No. 2, Bulandshahar in Maintenance

Case No. 829 of 201 [REDACTED]
[REDACTED] under section 125 Cr.P.C., Police Station Pahasu, District Bulandshahar, whereby the learned Court below has allowed the application under Section 125 Cr.P.C. of the revisionists and the opposite party no. 2 has been directed to pay Rs. 8,000/- to the revision no. 1 and Rs. 12,000/- to the revisionist no. 2 from the date of filing of the application till passing of present impugned judgment and order and to pay Rs. 10,000/- per month to revisionist no. 1 and Rs. 15,000/- per month to the revisionist no. 2 as maintenance from the date of impugned judgment and order. The revisionists by means of present revisionist have prayed for enhancement of maintenance amount awarded by the Court below from Rs. 20,000/- to Rs. 75,000/- per month from the date of filing of application.

3. Criminal Revision No. 51 of 2024 has been filed by [REDACTED] [REDACTED] (husband) with prayer to set aside the impugned judgment and order dated 01.12.2023 passed by Additional Principal Judge, Family Court, Court No. 2, Bulandshahar in aforesaid Maintenance Case No. 829 of 201 [REDACTED] under section 125 Cr.P.C., Police Station Pahasu, District Bulandshahar.

4. Since both criminal revisions are arising out of same impugned judgment and order dated 1.12.2023, therefore, these criminal revisions are being disposed of by a common order. Criminal Revision No. 223 of 2024 is the leading case for the purpose of judgment.

5. Learned counsel for the revisionists has submitted that marriage of opposite party no. 2 with the revisionist no. 1 is his (opposite party no. 2's) second marriage and on demand of her in-laws, parents of revisionist no. 1 spent Rs. 12 lakhs in the marriage and had given all household items. However, opposite party no. 2 and his family members were not satisfied with the dowry given at the time of marriage and were demanding additional dowry of Rs. 10 lakhs and Swift Car and when the demand of additional dowry was not fulfilled, they started mental and physical harassment of the revisionist no. 1. The revisionist no. 1 was thrown out from her matrimonial house during her pregnancy period, on account of illicit relation of opposite party no. 2 with some other lady and non fulfillment of demand of additional dowry. The revisionist no. 2 was born out of their wedlock at the parental house of revisionist no. 1 on

29.12.2017. In this regard, the revisionist no. 1 has filed Criminal Case No. 481 of 2017, under Section 498A, 323, 504 IPC and $\frac{3}{4}$ D.P. Act, wherein, Judicial Magistrate, Khurja, District Bulandshahar has summoned the opposite party no. 2 and his parents to face trial and in that case, the opposite party no. 2 and his parents are on bail and facing trial.

6. Opposite party no. 2 has not taken any care of the revisionists and has also not paid any maintenance after birth of their son and had also not taken them back. The revisionist has no source of income for their maintenance and therefore, has filed maintenance petition, wherein, the opposite party no. 2 appeared before the trial Court and submitted his written reply but, he has not disclosed his true income. The revisionist no. 1 although an educated lady but, is unable to work and is jobless, who is totally dependent upon her parents. The opposite party no. 2 has not paid any maintenance, whereas, he is serving as Engineer and is earning Rs. 1,94,860/- per month and fully capable to pay maintenance to both the revisionists. In support of his contention, the revisionist has filed salary slip of the opposite party no. 2 dated 25.6.2022, which shows that he is serving as Engineer in Nokia Solutions and Network India Pvt. Ltd. at Noida and getting Rs. 1,94,860/- per month. It was further argued that the revisionist has no source of income for maintenance of herself and her son. However, learned trial Court on the basis of misleading affidavit of opposite party no. 2 filed in compliance of direction of Hon'ble Supreme Court in Rajnesh vs. Neha has wrongly assessed his monthly income as Rs. 1,20,000/- per month without appreciating the evidence available on record. None of the family members of opposite party no. 2 is dependent upon him. The learned Court below has not correctly appreciated the evidence available on record and as such the impugned order is liable to be modified by directing the opposite party no. 2 to pay maintenance of Rs. 75,000/- per month to the revisionists.

7. It was further submitted that the facts of first marriage of opposite party no. 2 with Bhawana and birth of one daughter Km. Kanak from first marriage as well as divorce from his first wife have been concealed by the opposite party no. 2 from the parents of revisionist. Lastly, it was argued that the amount of maintenance awarded to the revisionist and her minor son are not sufficient to maintain themselves, therefore, learned counsel urged for allowing this revision and for enhancement of monthly

maintenance and for dismissal of Criminal Revision No. 51 of 2024.

8. Learned counsel for the opposite party no. 2 and learned AGA for the State have vehemently opposed the present criminal revision and argued that impugned judgment and order has been passed on the facts available on the file that too in accordance with well settled law, therefore, prayed for dismissal of the present criminal revision.

9. Learned counsel for the opposite party no. 2 further submitted that the marriage of the opposite party no. 2 was solemnized with revisionist no. 1 on 2.6.2013 as per Hindu rites and rituals without any demand of dowry. It is the second marriage of the opposite party no. 2 and out of their wedlock, one son named [REDACTED] as born. They were living happily. The revisionist no. 1 was in a private job. The revisionist is very ambitious and was not comfortable with his (O.P. No.2's) parents and when his father fell ill and required care and support, she was not ready to do and left his house. He tried to pursue and convince her to live with him. He also filed a suit for restitution of conjugal rights. On account of continuous efforts, she came to the house on two occasions but again went to her parental house and filed an application under Section 125 Cr.P.C. against him on false and frivolous grounds.

10. It was further submitted that the revisionist is a qualified lady and has obtained post graduate degree in a professional course i.e. fashion designing and she is able to maintain herself. He has filed all documentary evidence regarding liabilities in support of his written statement. However, learned Principal Judge, Family Court, has allowed the application filed by the revisionist without appreciating the evidence on record. He was always ready to keep the revisionists with all love, affection and care and he had made such offer in the proceedings of the present case before the learned Principal Judge. The revisionist had herself deserted and left him without any sufficient reason. The impugned order passed by learned Additional Principal Judge, Family Court, Bulandshahar is not in accordance with law and therefore, warrants interference by this Court. Lastly it was urged that Criminal Revision No. 223 of 2024 be dismissed and his Criminal Revision No. 51 of 2024 be allowed and the impugned judgment and order be set aside in entirety.

11. Admittedly, the revisionist no. 1 is legally wedded wife of opposite

party no. 2, whereas revisionist no. 2 is son of revisionist no. 1 and opposite party no. 2. It is also admitted fact between the parties that a Criminal Case No. 481 of 2017, under Sections 498A, 323, 504 IPC and 3/4 of D.P. Act is pending between the parties, which has been lodged by the revisionist no. 1 against the opposite party no. 2 and his parents for dowry harassment. It is also an admitted fact that a suit for restitution of conjugal rights was filed by opposite party no. 2, which was dismissed. Pendency of criminal case that too regarding dowry harassment of revisionist no. 1 at the hands of opposite party no. 2 and his parents gave a reasonable cause to revisionist no. 1 to live apart from her husband. It is a statutory as well as social obligation of a husband to maintain his wife and children.

12. The trial Court has recorded a finding in para no. 16, 17 and 18 of the impugned judgment that the revisionist no. 1 has a reasonable cause to live separately from her husband i.e. opposite party no. 2 and is thus residing in her parental house. Therefore, as far as reasons for the revisionist living separately is concerned, the learned trial Court has recorded a categorical finding on this issue and this Court being a Revisional Court cannot re-appreciate the evidence and also cannot substitute it's own finding, in place of the finding of facts recorded by the trial Court on this issue in question, unless the finding is completely perverse and is against the facts and law, which is not the case in hand.

13. In the present case, revisionist no. 1 filed an application for maintenance under Section 125 Cr.P.C., who is the wife of the opposite party no. 2. Section 125 Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman, who left her matrimonial home for the reasons provided in the provision, so that some suitable arrangement can be made by the Court and she can sustain herself and also her children, if they are with her. Apex Court in **Badshah vs. Urmila Badshah Godse and another (2014) 1 SCC 188**, has held that the provision of maintenance aims at empowering the destitute and achieving social justice or equality and dignity of the individual and while dealing with cases thereunder, the drift in the approach from adversarial litigation to social context adjudication is the need of the hour. Apex Court in **Rajnish vs. Neha and another (2015) 5 SCC 705**, has emphasized that maintenance laws were enacted as a measure of social justice to provide

recourse to dependent wives and children for their financial support, so as to prevent them from falling into destitution and vagrancy.

14. Hon'ble Apex Court in **Rina Kumari @ Rina Devi @ Reena vs. Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another (2025) 3 SCC 33** has clarified the law of maintenance under Section 125 Cr.P.C.. The relevant paras 9 to 14 are reproduced herein below:-

“9. In its 41st Report submitted on 24th September, 1969, the Law Commission of India, while advertng to Section 488 of the Code of Criminal Procedure, 1898, observed that the primary justification for placing provisions relating to maintenance of wives and children, which is a civil matter, in the Criminal Procedure Code was that a remedy, speedier and more economical than that available in the Civil Courts, is provided to them. The Law Commission noted that the provision was aimed at preventing starvation and vagrancy, leading to commission of crime.

*10. On the same lines, in **Chaturbhuj vs. Sita Bai**, this Court observed that the object of maintenance proceedings is not to punish a person for his neglect but to prevent the vagrancy and destitution of a deserted wife, by providing her food, clothing and shelter by a speedy remedy. It was held that Section 125 Cr.P.C. is a measure of social justice, especially enacted to protect women and children, falling within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. Thus, the objective of the provision, then and now, is to alleviate the financial plight of destitute wives, children and now, parents, who are left to fend for themselves.*

*11. In **Bhuvan Mohan Singh vs. Meena and others**, this Court observed that Section 125 Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman, who left her matrimonial home for the reasons provided in the provision, so that some suitable arrangement can be made by the Court and she can sustain herself and also her children, if they are with her. It was held that the concept of sustenance did not necessarily mean ‘to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else’ and the wife would be entitled in law to lead a life in a similar manner as she would have lived in the house of her husband. This Court further cautioned that, in a proceeding of this nature, the husband cannot be permitted to take subterfuge to deprive the wife of the benefits of living with dignity and there could be no escape route, unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on legally permissible grounds.*

*12. Earlier, in **Badshah vs. Urmila Badshah Godse and another**, this Court held that the provision of maintenance aims at empowering the destitute and achieving social justice or equality and dignity of the individual and while dealing with cases thereunder, the drift in the approach from adversarial litigation to social context adjudication is the need of the hour.*

*13. More recently, in **Rajnesh vs. Neha and another**, this Court emphasized that maintenance laws were enacted as a measure of social justice to provide recourse to dependent wives and children for their financial support, so as to prevent them from falling into destitution and vagrancy.*

*14. In **Shamima Farooqui vs. Shahid Khan**, this Court noted that the inherent*

and fundamental principle behind Section 125 Cr.P.C. is the amelioration of the financial state of affairs as well as the mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. It was further observed that, as per law, she is entitled to lead life in a similar manner as she would have lived in the house of her husband and as long as she is held entitled to grant of maintenance within the parameters of Section 125 Cr.P.C., it has to be adequate so that she can live with dignity. Lastly, it was noted that, a plea is sometimes advanced by the husband that he does not have the means to pay as he does not have a job or his business is not doing well, but these are only bald excuses and, in fact, they have no acceptability in law as a husband, who is healthy, able-bodied and in a position to support himself is under a legal obligation to support his wife and her right to receive maintenance under Section 125 Cr.P.C., unless disqualified, is an absolute right.”

15. Thus, provision for maintenance is a manifestation of the State's commitment to safeguard weaker sections of society, particularly women and children, from neglect and economic deprivation within the protective ambit of Articles 15(3) and 39 of the Constitution of India. The liability to maintain is continuous, enforceable, and insulated from considerations of proprietary holdings, flowing solely from the existence of the marital or familial relationship. **Courts have consistently reiterated that maintenance is not charity but a right, and its enforcement is essential to uphold equity, justice, and good conscience. Thus, maintenance jurisprudence in India stands as a testament to the judiciary's resolve to ensure that no wife, child, or dependent parent is left to languish in penury due to the neglect of those legally bound to sustain them.**

16. In the light of above principles, a perusal of the impugned judgment and order reveals that none of the party has placed on record any documentary evidence regarding income of revisionist no. 1. Revisionist no. 1 has claimed that the opposite party no. 2 is not maintaining her. Before the trial Court, opposite party no. 2 has stated that revisionist is a highly qualified lady having degree in the form of M.A. in a professional course i.e. fashion designing and is earning on account of teaching and tuitions, but no documentary evidence, regarding income of revisionist no. 1 has been placed on record by the opposite party no. 2. In this background, whether revisionist is capable of earning or whether she is actually earning, are two different requirements. If wife is capable of earning, then her mere capability is not sufficient to deny maintenance to her.

17. The Hon'ble Supreme Court in **Manish Jain v. Akanksha Jain, (2017) 15 SCC 801**, has observed:

"16. An order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no answer to a claim of maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife's parents is also immaterial. The court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the court."

18. Similarly, in **Shailja and another v. Khobbanna, (2018), 12 SCC 199**, it has been observed:

"5. That apart, we find that the High Court has proceeded on the basis that Appellant I was capable of earning and that is one of the reasons for reducing the maintenance granted to her by the Family Court. Whether Appellant I is capable of earning or whether she is actually earning are two different requirements Merely because Appellant I is capable of earning is not, in our opinion, sufficient reason to reduce the maintenance awarded by the Family Court."

19. Therefore, the law on this point is very clear that if wife is educated and well qualified to earn an income, this itself is not sufficient to deny maintenance to her.

20. It is not the case of opposite party no. 2 that revisionist is having any specialized technical / medical qualification like B.Tech. M.B.A., M.C.A., M.B.B.S. etc. In present-day scenario, by merely acquiring M.A. in fashion designing technology, it cannot be presumed that revisionist is actually earning some income, unless proved contrary. Although, it has been claimed by the opposite party no. 2 that his wife is earning Rs. 60,000/- per month from fashion designing. But, no such record was produced, either before this revisional Court or trial Court. Therefore, this plea of husband/opposite party no. 2, that the wife is earning Rs. 60,000/- per month, is not acceptable. However, the opposite party no. 2 has admitted in his affidavit 24A filed in compliance to direction of Apex Court issued in **Rajnish vs. Neha** that he is getting a salary of Rs. 1,25,000/- in hand per month. However, a finding to this effect has also been recorded by learned trial Court at para 20 of the impugned judgment that he is getting a salary of Rs. 1,20,000/- per month. **Therefore, as per**

his own admission in affidavit 24A, opposite party no. 2 is earning Rs. 1,25,000/- per month.

21. The direction issued by Apex Court in **Rajnesh vs. Neha and another (2021) 2 SCC 324** are not mere formalities. A uniform format of affidavit of Disclosure of Assets and Liabilities was directed to be filed by the parties in all maintenance proceedings. It was also directed that the format may be modified by the court concerned if the exigencies of a case require the same (para 72 to 95). It was also directed that the Court may involve Section 106 of Evidence Act, 1872 if necessary, since the income, assets and liabilities of the spouse are within the personal knowledge of the party concerned. Apex Court in **Aditi @ Mithi vs. Jitesh Sharma 2023 INSC 981** has directed that the guidelines given in Rajnesh's case (supra) be re-circulated to all the judicial officers through the High Courts concerned.

22. Law of maintenance under Section 125 Cr.P.C. is well settled and proceedings under this section are of summary nature and are intended to enable destitute wives and children to get maintenance in a speedy manner. The object is to prevent vagrancy and destitution by providing a speedy remedy for the supply of food, clothing and shelter to the deserted wife and children. It's primary object is to give social justice to the women, child and infirm parents etc. It is in this light, the affidavits are required to be filed. In spite of uniform format of Affidavit of Disclosure of Assets and Liabilities, parties may devise ways to defeat the very object of this social litigation and the Court's cannot shut its eyes on the ways so devised by the parties. It is the bounden duty of a trial Court to ensure that a party should not file an evasive affidavit just to avoid his liability to pay maintenance either to his wife/ child or his parents. The courts are required to be vigilant to find out such attempts and when detected, appropriate steps including invoking Section 106 of the Evidence Act as well as initiating action for prosecution under Sections 199/191 & 193 or 209 may also be initiated. It is thus a bounden duty of a trial court to ensure compliance of directions issued by Apex Court in **Rajnesh's case (supra)** in letter and spirit.

23. The purpose of highlighting this aspect is that in the case at hand, the proceedings before the Family Court were concluded without being alive to the objects, reasons and the spirit of the provision under Section 125

Cr.P.C.. Family Judge is expected to be sensitive to the issues such as the plight of the Indian women, who is forced to live separately and take care of young children, who (wife) is running from pillar to post just to receive maintenance for herself and her minor children, therefore, family Courts are dealing with extremely delicate and sensitive issues pertaining to maintenance. The very object of the maintenance proceedings is to prevent vagrancy and destitution of such deserted wife by providing food, clothing and shelter by a speedy remedy for maintenance. The trial Court can ameliorate the agony, anguish and financial suffering of a woman and thereby social justice as well as equality and dignity of a woman can be ensured. Family Courts should not show undue haste or impatience, but there is a distinction between impatience and to be wisely anxious and conscious about dealing with a situation. This Court had made the above observations as this Court felt, that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provision under Section 125 of the Cr.P.C. Such an impression has been gathered by this Court in the case on hand.

24. A perusal of the affidavit filed by [REDACTED] in the light of above well settled principles of law reveals that he has shown three family members to be dependent upon him, his father Rambhool Singh (72 years), his mother Munesh Devi (68 years) and his sister Rajani Som (36 years) in para 'C detail of dependent family members'. However, in its sub para-2, he has mentioned that his father is a pensioner and in his cross examination when he was shown the particulars mentioned by him in his aforesaid affidavit and was asked that as to why he has not mentioned the amount of pension being drawn by his father, then he stated that amount of pension is known to his father. Therefore, it is apparently clear that his father is a pensioner. During the course of argument this Court made an oral query to which, learned counsel for the opposite party no. 2 stated that father of [REDACTED] is retired Army personnel and is drawing pension from Indian Army. In this background [REDACTED] has filed a false affidavit showing his father and mother to be dependent upon him, whereas his father is a pensioner and his mother is dependent upon his father. Moreover, he has not explained that whether his sister Rajani aged 36 years is married or not and when their father Rambhool is alive, it cannot be easily presumed that his 38 years old sister is dependent upon him

without there being any other necessary particulars in this regard. In his affidavit, he has stated that he is getting salary of Rs. 1,25,000/- per month in hand, however, he has not disclosed other benefits and allowances received by him. The opposite party no. 2 is already paying maintenance of Rs. 5,000/- per month to his daughter Kanak born out of his wedlock from his first wife, therefore, his effective net salary i.e. carry home salary after deducting this amount comes out to be Rs. 1,20,000/-.

25. In his affidavit, opposite party no. 2 has admitted that he is income tax payee, however, he has not filed his income tax return as clearly indicated in the prescribed proforma of the affidavit. The opposite party no. 2 has admitted himself to be a salaried person getting a salary of Rs. 1,25,000/- per month in hand i.e. he himself has admitted that after all deductions he is getting a net salary of Rs. 1,25,000/- which is his net salary. **However, once again opposite party no. 2 has not annexed requisite latest salary certificate, pay slip and bank account statement in which he is receiving his salary, which were required to be filed as per sub para 5, 6, 7 and 9 of para 'F' of Uniform Proforma of Affidavit of Assets and Liabilities.** Meaning thereby, that opposite party no. 2 has intentionally concealed the material documents showing his actual income, from the trial Court. The opposite party no. 2 has also intentionally concealed his latest salary certificate as well as salary slip with an objective that the trial Court could not find out the amount of actual deductions from his gross salary, because those deductions could have been much higher than the requisite statutory deductions. The approach of trial Court in receiving and placing reliance on opposite party no. 2's affidavit, while writing down the judgment seems to be very casual and lackadaisical in nature. It was the bounden duty of the learned trial Court to examine that affidavit filed by the opposite party no. 2 in compliance of **Rajnesh's case (supra)** was required to be filled up with all mandatory necessary details as well as all requisite necessary documents. If a simple detailed perusal of affidavit would have been done, these all intentional concealment would have been easily noted by learned trial Court.

26. The opposite party no. 2 with some legal advise has shown his parents and sister as dependent upon him, just to deny the lawful right of the revisionists to receive maintenance from him. It is admitted fact that

father of opposite party no. 2, Rambhool, is an ex-serviceman and is receiving pension from the Army. There is no such statement made in the affidavit that his father is physically dependent upon him or economically dependent upon him or both. Clever devise of opposite party no. 2 is apparent, because he is residing with his parents in his house which he states to be in the name of his father but has intentionally concealed the amount of pension received by his father. Indian Army provides full medical facilities to ex-serviceman across the country. Father of opposite party no. 2 is residing at Meerut and it is well known fact that Meerut is a Cantonment Area having Military Hospital where all facilities including reimbursement of expenses, if incurred on purchase of medicines, can also be easily sought and inspite of this fact, the opposite party no. 2 has shown expenses of Rs. 30,000/- per month on his parents. Therefore, in the absence of necessary particulars regarding actual amount of pension being received by the father of opposite party no. 2 as well as health facilities available and utilized in the Defence establishment area, it cannot be presumed that the father and mother are dependent upon him. The opposite party no. 2 has also not shown marital status, if any, of his sister which is another material concealment. If the trial Court would have been a little vigilant regarding it's duty in maintenance proceedings, such a situation could have been easily averted. Family Courts are presided by Senior Judicial Officers of the cadre of Higher Judicial Services and therefore, it is expected from such officers to be not only alive to the ground realitics but they have a bounden duty to assess and carefully examine any calculative devise of a husband to subterfuge the right of maintenance of a wife and child.

27. The Hon'ble Supreme Court of India in the case of **Rajnesh Vs. Neha (2021) 2 SCC 324** has opined that since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband is required to earn money even by physical labour, if he is able-bodied, and cannot not avoid his obligation.

28. The Hon'ble Supreme Court of India in the cases of **Rajnesh Vs. Neha (supra) and Kulbhushan Kumar (Dr) v. Raj Kumari, (1970) 3 SCC 129**, has observed that the maintenance allowances can be granted up to the extent of 25% of the net income of the husband to the wife and 15% of the net income to their child. The maintenance amount awarded

must be reasonable and realistic, and should avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meager that it drives the wife to penury.

29. Thus, this Revisional Court is of the considered opinion that the maintenance allowance, fixed by the Court below, is not as per the law laid down by the Hon'ble Supreme Court in **Rajnesh (supra)** as 25 % of Rs. 1,25,000/- comes out to Rs. 31,250/- per month. As such, Rs. 30,000/-, towards monthly maintenance allowance, in favour of revisionist, is just, reasonable and realistic. Therefore, the judgment and order dated 01.12.2023, passed by the Additional Principal Judge, Family Court, Court No. 2, Bulandshahar in Case No. 829 of 201 [REDACTED] [REDACTED] under Section 125 of the Code of Criminal Procedure, 1973 is required to be modified to the extent that now the opposite party no. 2 shall pay Rs. 30,000/- per month in favour of revisionist no. 1 from the date of impugned judgment and order i.e. 01.12.2023.

30. However, at the same time, the respondent-husband cannot be absolved from his liability and responsibility to maintain his son till he attains the age of majority. Whatever be the dispute between the husband and the wife, a child should not be made to suffer. The liability and responsibility of the father to maintain the child continues till the child/son attains the age of majority. It also cannot be disputed that the son has a right to be maintained as per the status of his father. It is reported that the mother is not earning anything. She is residing at her parental house. Therefore, a reasonable/sufficient amount is required for the maintenance of her son including his education etc. Admittedly, revisionist no. 2 is a school going boy and at present is about 8 years of age and therefore, keeping in view his living expenses, which includes expenses for food, clothing, residence, medical expenses, education extra coaching class etc., this Court finds an amount of Rs. 17,500/- (which is less than 15% of Rs. 1,25,000/- i.e. Rs. 18,750/-) towards monthly maintenance in favour of the revisionist no. 2 is just, reasonable and realistic and the impugned judgment and order is required to be modified to the extent that now the opposite party no. 2 shall pay Rs. 17,500/- per month in favour of revisionist no. 2 from the date of impugned judgment

and order i.e. 01.12.2023.

31. The present maintenance petition was filed by the revisionist in the year 2019 and the aforesaid maintenance amount is calculated keeping in view the salary of opposite party no. 2 allegedly received by him late in the year 2022. Therefore, for deciding the amount of maintenance to be paid from the date of filing of application to the date of judgment is fixed to be Rs. 20,000/- per month for the revisionist No. 1 and Rs. 14,000/- per month is fixed for revisionist no. 2, which amounts shall be paid from the date of filing of the maintenance application.

32. Consequently, the judgment and order dated 01.12.2023, passed by the Additional Principal Judge, Family Court, Court No. 2, Bulandshahar in Case No. 829 of 201 [REDACTED] [REDACTED] under Section 125 of the Code of Criminal Procedure, 1973 is modified to the extent that now the opposite party no. 2 shall pay Rs. 47,500/- (Rs. 30,000/- for the revisionist no. 1 + Rs. 17,500/- for the revisionist no. 2) per month in favour of revisionist nos. 1 and 2 from the date of impugned judgment and order i.e. 01.12.2023 and Rs. 34,000/- (Rs. 20,000/- for revisionist no. 1 + Rs. 14,000/- for revisionist no. 2) from the date of filing of application to the date of judgment i.e. 01.12.2023.

33. Taking a humanitarian approach, this Court, also, provides that the arrears of maintenance allowance shall be paid by the revisionist in six monthly equal installments. The first installment shall commence from 1st July, 2026.

34. It is also clarified that the arrears of amount towards maintenance allowance, as awarded by the learned Family Court, shall be calculated on the basis of amount of maintenance allowance as fixed by this Court herein above and after that if it is found that any amount has been paid in excess, the same shall be adjusted from the amount to be paid.

35. In affidavit of Assets and Liabilities for non -agrarian deponents, it was required to disclose any independent source of income of the dependents including interest income, assets, pension, tax liability on such income and any other detail, which were completely missing in the present case. No medical record or disability certificate or summary of previous details of hospitalization/ medical treatment was produced by the

opposite party no. 2 regarding medical expenses of his parents. Even salary certificate clearly stating the designation with gross monthly income, Form-16 for relevant period, details of perquisites and other statutory benefits, income tax returns and copies of bank statement of all accounts for last 3 years of opposite party no. 2 were not furnished by him, which were required to be filed alongwith affidavit and only then, it could be said that requisite affidavit in compliance to Rajnesh's case (supra) has been filed. These are the reasons that this Court came to conclusion that the approach of learned trial Court was very casual in nature. **Let a copy of this judgment be circulated amongst all Judicial Officers of State of U.P. through Registrar (compliance) to ensure that the direction of Hon'ble Apex Court in Rajnesh vs. Neha be complied in its letter and spirit, as affidavits to be filed in compliance of Apex Court's direction is not a mere formality. The trial Courts must be alive to be objects and reasons as well as spirit behind law of maintenance as provided under Section 125 Cr.P.C./ 144 of BNSS, as noted in this judgment. The learned trial Courts must make an endeavour to ensure filing of all necessary documents, which are clearly indicated in prescribed proforma of Affidavit of Assets and Liabilities by Hon'ble Apex Court in Rajnesh vs. Neha (supra).**

36. The present Criminal Revision No. 223 of 2024 stands **allowed** accordingly and Criminal Revision No. 51 of 2024 stands **dismissed**.

37. A copy of this judgment be sent to Director, JTRI for sensitizing the judicial officer on this issue in the light of direction issued by Hon'ble Apex Court in Rajnesh vs. Neha as well as observation made in this judgment.

(Dr. Ajay Kumar-II,J.)

May 15, 2026

Dhirendra/