



2026:AHC:202538

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7197 of 2025

Archana Rao And 2 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Pradeep Kumar Mishra
Counsel for Opposite Party(s)	:	Dharm Raj, G.A.

AFR

Court No. - 87

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Heard Mr. Pradeep Kumar Mishra, learned counsel for the revisionists, Mr. Vindeswari Prasad, Advocate holding brief of Mr. Dharm Raj, learned counsel for opposite party no. 2, learned A.G.A. representing the State and perused the record.

2. Revisionist Archana Rao and two others have approached this Court by means of present Criminal Revision challenging the impugned order dated 06.09.2025 passed by the Principal Judge, Family Court, Jaunpur (hereinafter referred to as "the Trial Court") in Case No. 1888 of 2022, Archana Rao and others v. Awnish Kumar, under Section 125 Cr.P.C. By the impugned order the Trial Court partly allowed the application under Section 125 Cr.P.C. filed by the revisionist and ordered opposite party no. 2 to pay Rs.1500/- per month each to revisionist nos.2&3. However, the claim for maintenance to revisionist no. 1 (wife) has been rejected.

3. Feeling aggrieved by the aforesaid order, the present Criminal Revision has been preferred on the grounds that the impugned order has been passed without due compliance with the mandatory provisions of law and is contrary to the oral and documentary evidence available on record. It is further contended that the learned Trial Court has erred in recording a finding that revisionist no. 1 is living separately from her husband along with her minor children without sufficient reason. It is also submitted that

the impugned order is contrary to the principles of natural justice. Accordingly, a prayer has been made for setting aside the impugned order and allowing the present Criminal Revision.

4. Learned counsel for the revisionists submitted that revisionist no. 1 has no independent source of income and is residing with her father, upon whom she is dependent, along with her two children. It is further submitted that opposite party no. 2 is earning substantially more than the income assessed by the learned Trial Court. The learned Trial Court has, therefore, erred in recording a finding that revisionist no. 1 is capable of maintaining herself. It is also submitted that the amount of Rs. 1500/- per month each, awarded towards the maintenance of the two minor children is wholly inadequate to meet the basic needs of the children and, therefore, warrants interference by this Court.

5. *Per contra*, learned A.G.A. as well as learned counsel for opposite party no. 2 have vehemently opposed the instant Criminal Revision and supported the impugned judgment and order. Learned counsel for opposite party no. 2 submitted that as observed by the learned Trial Court in paragraph 20 of the impugned judgment and order, revisionist no. 1 herself admitted that she incurs approximately Rs. 10,000/- per month towards her food and other expenses and Rs. 5,000/- per month towards the food and other expenses of each of her two children. She further admitted that she earns through coaching and that the aforesaid expenses are being borne by her. Thus, according to the learned counsel, revisionist no. 1 has, in effect, admitted her monthly income to be at least Rs. 20,000/- per month.

6. It is further submitted that opposite party no. 2 has admitted that he is working as an Instructor in a Junior High School and earns Rs. 9,000/- per month. Thus, if the respective incomes of revisionist no. 1 and opposite party no. 2 are taken into consideration, their combined monthly income comes to Rs. 29,000/-. After payment of Rs. 1,500/- per month each to revisionist nos. 2 and 3, as directed by the learned Trial Court, revisionist no. 1 would be left with approximately Rs. 23,000/- per month, whereas opposite party no. 2 would be left with only Rs. 6,000/- per month for his own sustenance.

7. It is, therefore, contended that the impugned judgment and order does not suffer from any illegality, infirmity or perversity warranting interference by this Court. Accordingly, it is prayed that the present Criminal Revision be dismissed.

8. When confronted with above, the learned counsel for the revisionist could not overcome the same successfully.

9. Having heard the rival submissions of learned counsel for the parties and upon perusal of the record, the submissions advanced by learned counsel for opposite party no. 2 find support from the material available on record. It appears that both the husband and wife are earning members and that the children born out of the wedlock are residing with one of the spouses. In such circumstances, irrespective of the parent with whom the children are residing, the entire responsibility for their maintenance cannot be fastened upon such parent alone, as both parents have a corresponding obligation to contribute towards the upbringing and maintenance of their children in accordance with their respective means and financial capacity.

10. Section 125 Cr.P.C. contemplates the right of a child to claim maintenance from his or her “father or mother”, thereby recognizing the obligation of both parents towards their minor children. Section 125(1)(b) and (c) Cr.P.C. provides that where any **person**, having sufficient means, neglects or refuses to maintain **his** legitimate or illegitimate minor child, whether married or not, unable to maintain itself or his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury, unable to maintain itself, the Magistrate may pass an order for maintenance. The use of the expression “his” in the aforesaid provisions cannot be construed as restricting the liability only to a male parent.

11. Section 8 of the Indian Penal Code, 1860 defines "gender" and provides that the pronoun “he” and its derivatives are used for any person, whether male or female. Further, Section 2(y) of the Code of Criminal Procedure provides that words and expressions used therein and not

defined, but defined in the Indian Penal Code, shall have the meanings respectively assigned to them in the said Code. Thus, the expression “his” occurring in Section 125(1)(b) Cr.P.C. would include both male and female.

12. The expression “person” used in Section 125(1) is also not confined to a male and encompasses both father and mother. The cumulative effect of the aforesaid discussion is that the obligation to maintain a minor child is not to be fastened exclusively upon either the father or the mother. Ordinarily, both parents are required to contribute towards the maintenance and upbringing of their child in accordance with their respective means and financial capacity. While passing an order of maintenance, the Court must remain conscious that the order so passed is capable of being effectively executed, otherwise an unexecutable order would defeat the very purpose of justice. Similarly, while determining the quantum of maintenance for a minor child, the Court ought to take into consideration the social and economic circumstances and the financial capacity of both parents, and not merely that of the father or the mother.

13. In the present case, from the admission of revisionist no. 1, it appears that her (mother) income is higher than that of opposite party no. 2 (father). Therefore, she cannot altogether disclaim her responsibility to contribute towards the maintenance and other expenses of her children. The responsibility of bringing up and maintaining the children is ordinarily to be shared by both parents in accordance with their respective means and financial capacity and cannot be fastened exclusively upon one of them.

14. In view of above, we do not find any good ground to interfere with the impugned order. It is liable to be dismissed.

15. It is, accordingly, **dismissed**.

(Lakshmi Kant Shukla,J.)

September 25, 2026

Brijesh Maurya