



2026:AHC:48566

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5048 of 2025

Arvind Kumar

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Ravindra Kumar Mishra
Counsel for Opposite Party(s)	:	Chandra Bhushan Singh, G.A.

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Ravindra Kumar Mishra, learned counsel for the revisionist, Sri C.B. Singh, learned counsel for the opposite party no.2 and learned A.G.A. for the State and perused the record.
2. The present criminal revision has been filed challenging the order dated 06.08.2025 passed by the learned Principal Judge, Family Court, Azamgarh in Case No. 748 of 2024 (Km. Rittika Vs. Arvind Kumar) under Section 144 B.N.S.S., Police Station Tahabarpur, District Azamgarh, whereby the application moved by the revisionist seeking impleadment of the mother of the minor child as a party in the proceedings has been rejected.
3. Learned counsel for the revisionist submits that the minor child is the daughter of the revisionist and Smt. Poonam. It is contended that the revisionist is working as a Railway Clerk and is earning about Rs.41,000/- per month, whereas the mother of the minor child, namely Smt. Poonam, is working as a Police Constable and is earning about Rs.55,000/- per month. It is argued that since both parents are earning members, the liability to maintain the minor child is a joint and shared responsibility and, therefore, the mother of the child ought to have been impleaded as a party in the proceedings.
4. In support of his contention, learned counsel for the revisionist has placed reliance upon the judgment of the Hon'ble Supreme Court in *Chandu Sridevi vs. Chandu Sesha Rao, Civil Appeal No. 1159 of*

2023, arising out of SLP (C) No. 26395 of 2019, wherein it has been observed that where both parents are earning, they have a shared responsibility to maintain their children and provide them the best possible upbringing.

5. Per contra, learned counsel for the opposite party submits that the application for maintenance has been filed on behalf of the minor child through her maternal grandfather and the opposite party, being the master of the proceedings, is entitled to choose the parties against whom the relief is sought. It is further submitted that the revisionist, being the father of the minor child, cannot evade or dilute his statutory obligation to maintain the child by insisting upon impleadment of the mother as a party.
6. Having considered the submissions advanced by learned counsel for the parties and upon perusal of the record, this Court finds that the proceedings in the present case arise out of an application under Section 144 B.N.S.S., which corresponds to the provisions relating to maintenance of wife, children and parents.
7. The learned Family Court has rejected the application of the revisionist primarily on the ground that there is no specific provision in the criminal procedure enabling impleadment of a party in the manner contemplated under Order I Rule 10 of the Code of Civil Procedure and that the proceedings under the said provision are summary in nature.
8. Regarding the array of parties, this Court finds that the opposite party no. 2 is the *Dominus Litis* (Master of the Suit). It is a settled principle of law that the person initiating a legal proceeding has the absolute prerogative to choose the parties against whom they seek relief. Merely because the mother of the minor child is also earning does not absolve the father from his statutory obligation to maintain the child.
9. The liability of the father to maintain his minor child is a legal and moral obligation and the revisionist cannot seek to avoid or postpone such liability by insisting that the mother must first be impleaded as

a party to the proceedings.

10. At the same time, this Court cannot lose sight of the legal position that when both parents are earning members, the responsibility of maintaining the child is a shared and joint responsibility, as observed by the Hon'ble Supreme Court in **Chandu Sridevi vs. Chandu Sessa Rao (supra)**.
11. Therefore, although the impleadment application moved by the revisionist was rightly rejected by the learned Family Court, it is equally necessary that while determining the quantum of maintenance, the learned trial court must take into consideration the financial status and earning capacity of both parents, including the fact that the mother of the minor child is also employed.
12. Accordingly, this Court is of the opinion that no illegality, perversity or jurisdictional error is found in the impugned order dated 06.08.2025 warranting interference in exercise of revisional jurisdiction.
13. However, it is clarified that while deciding the main application under Section 144 B.N.S.S., the learned Family Court shall take into consideration the income and financial capacity of both parents and determine the amount of maintenance in a just and reasonable manner keeping in view the principle of shared parental responsibility and the welfare of the minor child.
14. With the aforesaid observations, the present criminal revision is dismissed.
15. The learned trial court is directed to proceed with the matter expeditiously and decide the maintenance application in accordance with law, uninfluenced by any observation made in this order except to the extent indicated above.

(Madan Pal Singh,J.)

March 10, 2026

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