



2026:AHC:51216

**HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 2132 of 2025**

Binay Kushwaha

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s) : Satendra Singh
Counsel for Opposite Party(s) : Brij Raj Singh, G.A.

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Satendra Singh, learned counsel for the revisionist, Sri Brij Raj Singh, learned counsel for opposite party no. 2, and the learned A.G.A. for the State, and perused the record.
2. The present criminal revision has been filed by the revisionist seeking to set aside the order dated 05.02.2025 passed by the Principal Judge, Family Court, Mainpuri in Case No. 894 of 2021 (Jyoti Shakya Kushwaha Vs. Binay Kushwah), under Section 125 Cr.P.C., whereby the learned trial court directed the revisionist to pay a sum of Rs.12,000/- per month to opposite party no. 2 as maintenance allowance from the date of filing of the application till the date of the impugned order and Rs.18,000/- per month from the date of the impugned order.
3. Learned counsel for the revisionist contended that the trial court has failed to consider the income of opposite party no. 2, who is a Radiologist and had worked at Fortis Hospital from the year 2014 to 2020, which fact has been admitted by opposite party no. 2 before the trial court. It is further submitted that she left her job on her own volition and thereafter filed an application under Section 125 Cr.P.C. only to claim maintenance from the revisionist. It is next submitted that the wife had voluntarily left the matrimonial home, was unwilling to discharge her matrimonial obligations and refused to reside with the revisionist.
4. Per contra, learned counsel for opposite party no. 2 supported the impugned order and submitted that the revisionist is working as Subedar in the Indian Army and is receiving a salary of about Rs.70,000/- per month. It was further contended that mere employment or qualification of the wife cannot be a ground to deny maintenance, particularly when there exists disparity in the income and status of the parties.
5. Considering the facts and circumstances of the case, the submissions

advanced by learned counsel for the parties and the record of the case including the impugned order, it is an admitted position that opposite party no. 2 is the legally wedded wife of the revisionist.

6. This Court has given thoughtful consideration to the rival submissions. The principal contention of the revisionist is that opposite party no. 2 is highly qualified and capable of earning and, therefore, the maintenance awarded by the learned trial court is excessive.
7. From the material available on record, it appears that opposite party no. 2 is a qualified Radiologist and had admittedly worked at Fortis Hospital, Gurugram from the year 2014 to 2020. The said fact has been admitted by opposite party no. 2 before the learned trial court. It further transpires that she left the said employment on her own volition.
8. It is well settled that the object of granting maintenance under Section 125 Cr.P.C. is to ensure that the wife is able to live with dignity and maintain a standard of living reasonably similar to that enjoyed in the matrimonial home. The legal position stands settled by the Hon'ble Supreme Court in **Shailja v. Khobbanna, (2018) 12 SCC 199**, wherein it has been held that mere earning of the wife does not disentitle her from maintenance; the decisive test is whether such income is sufficient to enable her to maintain herself with dignity.
9. In the present case, however, it is evident that opposite party no. 2 is a qualified medical professional possessing the skills and expertise of a radiologist and had previously been gainfully employed for several years. Her professional qualifications and past employment clearly demonstrate that she has substantial earning capacity and is capable of engaging herself in gainful employment. In such circumstances, maintenance cannot be granted ignoring the professional competence and earning potential of the claimant.
10. Tested on the aforesaid legal principles and considering the salary of the revisionist, the professional qualifications and earning capacity of opposite party no. 2, and the overall facts and circumstances of the case, this Court is of the view that the amount of Rs.18,000/- per month awarded by the learned court below from the date of the impugned order appears to be excessive and not commensurate with the earning capacity of the parties. Hence it is reduced to Rs.12,000/- per month from Rs.18,000/- per month from the date of filing of the application.
11. The criminal revision is partly allowed and the impugned order dated 05.02.2025 passed by the Principal Judge, Family Court, Mainpuri is modified to the extent indicated above.

March 12, 2026
Akbar

(Madan Pal Singh,J.)