



2026:AHC:109684

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5384 of 2025

Smt. Huda Khanam

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Adil Jamal, Shabeh Jamal
Counsel for Opposite Party(s) : G.A., Mohammad Abid Ali

Court No. - 88

HON'BLE ACHAL SACHDEV, J.

1. Rejoinder affidavit filed on behalf of the revisionist, today in the Court, is taken on record.
2. Heard learned counsel for the revisionist, learned counsel for the opposite party no.2 and AGA for State and perused the record.
3. Present criminal revision is being preferred against the judgment and order dated 01.08.2025, passed by learned Principal Judge, Family Court, Rampur, in Criminal Misc. Case No.542 of 2023 (Smt. Huda Khanam Vs Rizwan Khan), by which the application under section 125 Cr.P.C. moved by the revisionist has been partly allowed and the opposite party no.2 was directed to pay maintenance of Rs.2500/- per month to the revisionist, from the date of application i.e 21.09.2023.
4. Learned counsel for the revisionist submits that on 05.11.2022 the revisionist was married with opposite party no.2 according to Muslim rites and customs. The revisionist's parents had given dowry beyond their means in the marriage and had spent about Rs.15 lakh, yet after the marriage, the opposite party no.2 and his family started taunting and harassing the revisionist for bringing insufficient dowry and demanded a new car and Rs.5 lakh cash, as additional dowry. The brother-in-laws of the revisionist has repeatedly sexually assaulted the revisionist in front of the opposite party no.2, yet he threatened the revisionist. The revisionist later was thrown out

of the house and was pressurized to fulfill the aforesaid demands of additional dowry. Upon the refusal, the opposite party no.2 on 30.07.2023 at around 4:00 P.M., pronounced triple talaq on phone and thereafter a panchayat was held but the opposite party no.2 was adamant with the additional dowry demand and the opposite party no.2 never inquired about the revisionist nor provided any maintenance.

5. It is further submitted by learned counsel for the revisionist that the revisionist has filed an application filed u/s 125 C.r.P.C. for decree of maintenance amount of Rs.30,000/- but the learned Family Court vide its impugned order dated 01.08.2025 awarded a mere amount of Rs.2500/- without considering the income source of the opposite party no.2 and the standard of living of the revisionist. The opposite party no.2 earns around Rs.45,000/- per month and is fully capable of providing maintenance to the revisionist as claimed in the application, hence the revisionist has preferred the present revision for enhancement of the maintenance amount so awarded.

6. Per Contra, the learned counsel for the opposite party no.2 vehemently opposed the arguments advanced by the revisionist and submits that opposite party no.2 and his family never physically assaulted or threw the revisionist out of the house and all the allegations are false and baseless. The Opposite party no.2 did not make any phone calls to the revisionist on July 30, 2023, nor did he demand dowry or cash, nor did he pronounce triple talaq over the phone. Due to the opposite party no.2's low income, the revisionist was not agreeable to him and frequently caused conflicts at home due to unreasonable demands, thus under immense pressure from the revisionist and her family, opposite party no.2 agreed to a divorce her in March-2023. The revisionist and the opposite party no.2 were divorced in accordance with Sharia law and the after receiving an amount of Rs.5,60,000/-, the revisionist is living separately as per her wish and happiness, whereas the revisionist has never thrown by the opposite party no.2 out of the house nor has she suffered any physical or mental harassment, therefore the revisionist is not

entitled to receive the maintenance amount.

7. Learned counsel for the opposite party no.2 further submits that the revisionist is an educated graduate and earns approximately Rs.15,000/- per month by tutoring children and doing sewing and embroidery. The opposite party no.2 lives in an old, ancestral house and earns barely Rs.5,000-6,000/- per month through daily wage labor, which barely allows him to support his parents.

8. Perusal of the impugned order dated 01.08.2025 shows that application under section 125 Cr.P.C. moved by the revisionist for maintenance was allowed by the learned trial court primarily on the ground that the Hon'ble Supreme Court in the case of **Rajathi v. C. Ganesha, AIR 1999 (Supreme Court) page 2374**, has laid down the legal principle that a wife's statement that she is unable to maintain herself is sufficient. Otherwise, the burden is on the husband to prove that he is capable of maintaining himself. The evidence on file establishes that the revisionist has no source of income. The opposite party no.2 has failed to prove that the revisionist is capable of supporting herself. Opposite party no.2 is healthy and young and with the monthly income of approximately Rs.10,000/- earned from truck helpship and other sources, he is fully capable of supporting the revisionist. Thus the revisionist is entitled to get Rs.2500/- per month as maintenance from the opposite party no.2 under section 125 C.r.P.C. (now 144 BNSS).

9. Perused the records, it is a well established principal of law that when a party seeks enhancement of maintenance in revision, the High Courts hands are tied by the statutory limits of revisional jurisdiction. It is confined to examining legality, propriety, or jurisdictional correctness. The court may quash, remit, or set aside an order if it is perverse or illegal, but it does not substitute its own factual determination. Revisional power is not appellate power. The High Court cannot directly increase or decrease the maintenance amount in revision. The proper remedy for enhancement lies before the court which passed the order in the form of an Alteration petition under Section 127 Cr.P.C. / Section 146 BNSS before the trial court, if circumstances have

changed (e.g., increase in income, inflation, new needs of dependents).

10. The Supreme Court, in **Rajnish v. Neha (2020)**, at paragraph 128, while addressing the issue of overlapping jurisdiction and the need to avoid conflicting orders in different proceedings, directed in para 128.3:-

"(iii) that if the order passed in the previous proceeding(s) requires any modification or variation, it would have to be done in the same proceeding in which the order was passed."

11. The High Court cannot re-appreciate evidence or weigh changed circumstances afresh. Its role is supervisory correcting illegality, impropriety, or jurisdictional error. Enhancement necessarily requires proof of changed circumstances (increase in income, inflation, new needs, etc.). This involves adducing and evaluating fresh evidence, inviting objections from the non-applicant, and forming a factual opinion.

12. Revisional courts lack the power to conduct this evidentiary exercise. They cannot substitute their own factual findings for those of the trial court. The proper remedy would be to make a proper alteration petition under Section 127 CrPC / Section 146 BNSS before the trial court, where evidence can be led and tested. Therefore, the revisionist is directed to approach the learned court concerned under Section 127 Cr.P.C. / Section 146 BNSS for the enhancement of the maintenance amount and the same shall be decided by the learned court concerned in accordance with the law after hearing both the parties.

13. In the light of the aforesaid discussion, the impugned judgment and order dated 01.08.2025, passed by learned Principal Judge, Family Court, Rampur, in Criminal Misc. Case No.542 of 2023 (Smt. Huda Khanam Vs Rizwan Khan), needs no interference by this Court and the present revision is liable to be dismissed.

14. Accordingly, the present revision is hereby **dismissed**.

May 12, 2026
VKG

(Achal Sachdev,J.)