



2026:AHC:127763

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 5768 of 2024

Alok Tiwari

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Revisionist(s) : Aditya Yadav, Shivam Yadav
Counsel for Opposite Party(s) : G.A., Indra Jit Singh

Reserved on April 27, 2026
Delivered on June 17, 2026

Court No. - 46

HON'BLE GARIMA PRASHAD, J.

1. Heard Mr. Shivam Yadav, learned counsel for the revisionist, Mr. O.P. Singh, learned Senior Advocate assisted by Mr. Indra Jeet Singh, learned counsel for the opposite party No.2 and the learned AGA for the State.
2. By means of the present criminal revision, the revisionist Alok Tiwari has challenged the judgment and order dated 14.08.2024 passed by the learned Principal Judge, Family Court, Mainpuri in Case No. 288 of 2017, Smt. Neha Shukla v. Alok Tiwari, under Section 125 Cr.P.C., Police Station Kotwali, District Mainpuri, whereby the application filed by opposite party no.2 was partly allowed and the revisionist was directed to pay maintenance at the rate of Rs.20,000/- per month to opposite party no.2 from the date of filing of the application, i.e. 17.06.2017.

3. The principal grounds raised by the revisionist are that opposite party no.2 is an educated, employable and financially independent lady having sufficient means to maintain herself and, therefore, she is not entitled to maintenance under Section 125 Cr.P.C. It has been urged that opposite party no.2 is earning from tuition and coaching work and is also supported by the pension and properties of her mother. It has further been alleged that opposite party no.2 has concealed material facts relating to her education, income and financial status and falsely projected herself as a dependent housewife.

4. It has also been contended on behalf of the revisionist that he is himself not in regular employment and is burdened with the responsibility of maintaining his aged parents. According to him, the learned Family Court erred in relying upon his earlier income details when he was employed with Jaypee Group, whereas after liquidation of the said company he ceased to have regular employment and is presently working as a freelance Chartered Accountant with irregular income. It is, therefore, submitted that the maintenance of Rs.20,000/- per month is excessive and disproportionate.

5. *Per contra*, learned counsel for opposite party no.2 has supported the impugned judgment and submitted that the learned Family Court has recorded detailed findings after appreciating the entire oral and documentary evidence. It has been submitted that opposite party no.2 was compelled to reside separately due to cruelty, harassment and neglect by the revisionist. It is further submitted that the revisionist is a qualified Chartered Accountant, has been working at different places, has undertaken consultancy work, and has failed to produce his income tax returns and complete financial documents. It is also submitted that no reliable evidence has been produced to establish that opposite party no.2 has an independent income sufficient for her maintenance.

6. I have heard learned counsel for the parties and perused the record.

7. The factum of marriage between the parties on 12.02.2013 according to Hindu rites and ceremonies is not in dispute. The first substantial issue is whether opposite party no.2 had sufficient cause to reside separately from the revisionist and whether the revisionist had neglected her. The learned Family Court has considered this issue in detail. The case of opposite party no.2 was that her mother, being a widow and retired Headmistress, had spent substantial amounts in the marriage and that despite the same, the revisionist and his family members were dissatisfied and demanded money for purchase of a flat. It was specifically alleged that a demand of Rs.25 lakhs was made and that opposite party no.2 was subjected to mental and physical cruelty on account of non-fulfilment of the said demand.

8. The revisionist denied the allegations and contended that the marriage was solemnized without dowry. He further alleged that opposite party no.2 voluntarily left the matrimonial home, behaved rudely, refused marital obligations, and threatened to implicate him and his family members in false criminal cases. He also alleged that she could not tolerate his family members and was unwilling to live with him.

9. The learned Family Court has rightly observed that even if demand of money for purchase of a flat may not strictly amount to dowry in the technical sense, continuous pressure upon the wife and her widowed mother to arrange money for such purpose, coupled with harassment on that account, would certainly amount to cruelty. The record shows that the revisionist had booked a flat through SBI loan and admittedly received Rs.5.5 lakhs from the mother of opposite party no.2 during the said transaction. Although he attempted to describe the said amount as a loan, the surrounding circumstances were rightly considered by the learned Family Court while assessing the allegation that pressure was exerted upon opposite party no.2 to bring money.

10. The learned Family Court has also considered the medical papers relating to injuries sustained by opposite party no.2. The revisionist took

inconsistent stands regarding the manner in which such injuries were caused. At one stage, it was suggested that opposite party no.2 had slipped and fallen; at another stage, the fall was stated to have occurred in the bathroom; elsewhere it was suggested that she had fallen in the bedroom; and another suggestion indicated that she had slipped from the staircase. Since the alleged injuries were sustained while opposite party no.2 was residing with the revisionist, the revisionist was expected to give a clear and consistent explanation. The contradictions in his version were rightly treated as relevant by the court.

11. It is also relevant that after opposite party no.2 was left at her parental side on 18.12.2016, the revisionist soon thereafter instituted divorce proceedings and admittedly did not make any serious effort to bring her back. The mediation proceedings were also considered by the learned Family Court. The said proceedings indicated that opposite party no.2 was willing to reside with the revisionist, whereas the revisionist was not willing to continue cohabitation.

12. The learned Family Court has also rightly taken note of the allegations made by the revisionist in the divorce proceedings regarding the mental condition and character of opposite party no.2. The revisionist alleged that opposite party no.2 was mentally weak and had questionable conduct, but no cogent evidence was produced to substantiate such serious allegations. On the contrary, the revisionist admitted that opposite party no.2 is highly educated, being M.Sc. and B.Ed. The learned Family Court, therefore, rightly found such allegations to be unsupported by evidence. Making baseless allegations touching the character and mental condition of the wife is itself a relevant circumstance while considering whether she had sufficient cause to reside separately.

13. Upon a cumulative consideration of the admitted receipt of money from the mother of opposite party no.2, the allegations regarding pressure for arranging money for the flat, the medical papers relating to injuries, the contradictory explanations offered by the revisionist, the

subsequent institution of divorce proceedings, the absence of any genuine effort to bring back opposite party no.2, and the stand taken by the revisionist in mediation, the learned Family Court concluded that opposite party no.2 had sufficient reason to reside separately and that the revisionist had neglected her. The said finding is based on appreciation of evidence and cannot be said to be perverse.

14. The next question relates to the financial capacity of the revisionist and the correctness of the quantum of maintenance awarded.

15. Opposite party no.2 pleaded that the revisionist is a Chartered Accountant and that at the time of marriage he was employed in Noida. She further alleged that he was working with J.P. Group, Noida, as Accountant Manager and was earning a substantial salary, besides earning from private consultancy work. She also asserted that he possessed residential and agricultural property.

16. The revisionist denied the income alleged by opposite party no.2 and stated that due to matrimonial stress and disputes he lost his regular employment and presently had only irregular income as a freelance Chartered Accountant. He also pleaded liabilities towards his parents and younger brothers.

17. However, during evidence, the revisionist admitted that he is a qualified Chartered Accountant and had been practising as such even prior to marriage. He further admitted that he worked at different places including Noida, Kanpur, Lucknow and Bewar depending upon availability of work. The learned Family Court also noticed that after working with J.P. Group, Noida, the revisionist had joined another concern namely "Intact". These admissions show that the revisionist continued to remain professionally engaged and was not a person without earning capacity.

18. The admitted lifestyle of the revisionist was also relevant. The revisionist admitted that he owned a Honda City car. He further admitted that during the subsistence of matrimonial life, he had taken opposite party no.2 to places such as Goa, Delhi and Udaipur through air travel

and had stayed in hotels. Documents relating to air tickets, hotel bills and travel expenses were also filed. These circumstances clearly establish that the revisionist maintained a standard of living above ordinary means and had the financial capacity to maintain opposite party no.2 in a reasonable manner.

19. The learned Family Court also noticed that in objections filed against interim maintenance dated 12.09.2018, the revisionist himself admitted earning about Rs.90,000/- per month at that time. The revisionist sought to contend that this was an earlier income and that subsequently his circumstances changed. However, no reliable documentary evidence was produced to establish any substantial fall in income. On the contrary, the evidence showed that he continued to work as a Chartered Accountant and consultant at different places.

20. The plea of unemployment and depression was also not supported by the revisionist's own witnesses. D.W.-2 stated in cross-examination that the revisionist had never suffered from depression and that his employment had not ceased. D.W.-3 also admitted that the revisionist was working as a Chartered Accountant at Lucknow and was engaged in private consultancy work. These admissions substantially weaken the plea of financial incapacity raised by the revisionist.

21. An important circumstance is that the revisionist, despite being a Chartered Accountant and despite having special knowledge of his income, failed to produce income tax returns, complete accounts, professional receipts, bank statements or other reliable financial documents which could have disclosed his true income. Facts relating to income, professional earnings and financial capacity are matters especially within the knowledge of the person concerned. Where such a person withholds the best evidence, the court is justified in drawing an adverse inference. The learned Family Court, therefore, committed no error in assessing the earning capacity of the revisionist on the basis of his qualifications, admissions, lifestyle, prior income disclosure and professional engagement.

22. So far as the alleged income of opposite party no.2 is concerned, the revisionist pleaded that she is highly educated and earns from coaching or tuition work. It was also alleged that her mother is a retired Headmistress receiving pension and that properties belonging to her family had been sold for substantial consideration. However, the learned Family Court found that no cogent evidence was produced to prove that opposite party no.2 was actually employed or earning income sufficient for her maintenance. No document relating to any coaching institute, tuition income, appointment, salary, bank transactions or professional engagement was brought on record.

23. The mere fact that opposite party no.2 is educated cannot disentitle her from maintenance. Education and earning capacity are relevant considerations, but they cannot be equated with actual and sufficient income. In proceedings under Section 125 Cr.P.C., the test is whether the wife is able to maintain herself in the manner contemplated by law. A wife cannot be denied maintenance merely because she is qualified, when there is no evidence that she is actually earning sufficient income.

24. The reliance placed by the revisionist upon the pension and properties of the mother of opposite party no.2 is also misplaced. The legal obligation to maintain the wife is that of the husband. The pension of the mother or properties allegedly belonging to the mother cannot be treated as the independent income of the wife. The learned Family Court has also noticed that although sale deeds relating to properties sold by the mother were filed, no material was produced to establish that any property stood in the exclusive name or possession of opposite party no.2. Opposite party no.2 also clarified that the properties had been sold by her mother for marriage expenses and repayment of liabilities and that her own share was limited. Thus, no sufficient independent source of income of opposite party no.2 was established.

25. The learned Family Court has rightly applied the principle laid down in *Rajnish v. Neha and others; (2021) 2 SCC 324*, wherein the

Hon'ble Supreme Court has held that maintenance must be determined having regard to the status of the parties, reasonable needs of the wife, income and liabilities of the husband, and the standard of living enjoyed by the wife in the matrimonial home. The object of Section 125 Cr.P.C. is to prevent destitution and vagrancy and to ensure that a wife who is unable to maintain herself is not left without means of support.

26. In the present case, the revisionist is admittedly a qualified Chartered Accountant. He has professional experience, has worked with companies, has undertaken consultancy work, has admittedly worked at different places, has maintained a car, and has incurred expenditure on air travel and hotel stays. He also admitted earning Rs.90,000/- per month in the past. Against this material, there is no reliable evidence to show that opposite party no.2 has any independent income sufficient for her maintenance. In such circumstances, the award of Rs.20,000/- per month cannot be said to be excessive, arbitrary or disproportionate.

27. It must also be remembered that the present proceedings arise in revisional jurisdiction. The revisional court does not sit as a regular court of appeal to reappreciate the entire evidence merely because another view may be possible. Interference is warranted only where the finding of the court below suffers from patent illegality, perversity, jurisdictional error or material irregularity. The learned Family Court has considered the pleadings, oral testimony, documentary evidence, admissions and surrounding circumstances in detail. The conclusions recorded by it are possible and reasonable conclusions based on evidence. No perversity or illegality is shown.

28. The contention that the maintenance has been awarded from the date of application also does not call for interference. The application was filed on 17.06.2017. The learned Family Court, after recording reasons and considering the circumstances of the case, awarded maintenance from the date of application. Such direction is consistent with the settled principle that maintenance may be awarded from the date of application where the facts justify such an order. The revisionist

is, of course, entitled to adjustment of any amount already paid towards interim maintenance, as directed by the learned Family Court.

29. Thus, upon overall consideration of the matter, this Court finds that opposite party no.2 is the legally wedded wife of the revisionist; she had sufficient cause to reside separately; the revisionist neglected to maintain her; no sufficient independent income of opposite party no.2 was proved; and the revisionist, being a qualified Chartered Accountant with admitted professional engagement and earning capacity, is under a legal obligation to maintain her. The quantum of Rs.20,000/- per month is just, reasonable and does not warrant interference.

30. Consequently, the criminal revision is devoid of merit and is liable to be and is, accordingly, dismissed.

31. The judgment and order dated 14.08.2024 passed by the learned Principal Judge, Family Court, Mainpuri in Case No. 288 of 2017, Smt. Neha Shukla v. Alok Tiwari, under Section 125 Cr.P.C., Police Station Kotwali, District Mainpuri, is affirmed.

32. The revisionist shall continue to pay maintenance to opposite party no.2 at the rate of Rs.20,000/- per month from the date of application, i.e. 17.06.2017, as directed by the learned Family Court.

33. Any amount already paid towards interim maintenance or maintenance pursuant to court orders shall be adjusted against the total arrears.

34. Interim order, if any, stands vacated.

35. No order as to costs.

(Garima Prashad,J.)

June 17, 2026

Kuldeep