



2026:UHC:66

Reserved On 12.12.2025

Delivered On 03.01.2026

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

Criminal Revision No. 626 of 2022

.....Revisionist

Versus

State Of Uttarakhand and OthersRespondents

With

Criminal Revision No. 629 of 2022

.....Revisionists

Versus

Dheeraj KapoorRespondent

Presence:-

Mr. Tapan Singh, learned counsel for the revisionist in CRLR No. 626 of 2022.

Mr. Dinesh Chauhan, learned Brief Holder for the State.

Ms. Divya Jain, learned counsel for respondent nos.2 & 3 in CRLR No. 626 of 2022.

Hon'ble Mr. Alok Mahra, J.

Both the criminal revisions arise out of the same judgment and order dated 16.07.2022, passed by the learned Judge, Family Court, Haridwar, District Haridwar in O.S. No. 161 of 2017, whereby the application filed by the minor children under Section 125 of the Code of Criminal Procedure (Cr.P.C.) was partly allowed and the father was directed to pay maintenance of ₹6,500/- per month to each of the two minor children. Since both the revisions emanate from the same impugned order, they are being decided by

this common judgment.

2. Criminal Revision No. 626 of 2022 has been preferred by the father, [REDACTED] seeking setting aside of the impugned order on the ground that the learned Family Court has erred in law and on facts in awarding maintenance beyond his financial capacity and without properly considering the income of the mother. Criminal Revision No. 629 of 2022 has been filed by the minor children through their mother, seeking enhancement of the amount of maintenance awarded by the Family Court.

3. The brief facts of the case are that the marriage between Dheeraj Kapoor and Poonam Kapoor was solemnized on 17.04.2009 according to Hindu rites and rituals. Out of the said wedlock, two children were born, namely [REDACTED] (daughter) and [REDACTED] (son). Owing to matrimonial discord, the parties started living separately, and the minor children have been residing with their mother. The minor children, through their mother, filed an application under Section 125 Cr.P.C. alleging that the father was addicted to alcohol and had subjected their mother to physical and mental cruelty. It was alleged that on multiple occasions she was assaulted, her character was maligned, and she was eventually forced to leave the matrimonial home. It was further pleaded that the father was earning about ₹90,000/- per month while working in an insurance company and had sufficient means to maintain the children. Maintenance of ₹30,000/- per month was sought.

4. The father contested the application, denying all allegations of cruelty and neglect. He claimed that

the mother was living separately without sufficient cause and that he was unemployed due to multiple litigations initiated against him. He relied upon various judicial precedents, including *Bhagwan Dutt v. Kamla Devi*, *Koushik v. Sau Sangeeta Koushik*, *Ankit Saha v. State of U.P.*, and *Sanjeev Gupta v. Shalini Gupta*, to contend that maintenance must be commensurate with actual income and cannot be granted mechanically.

5. The mother of the minor children appeared as PW-1 and reiterated the allegations made in the application. She filed an affidavit of assets and liabilities in compliance with the judgment of the Hon'ble Supreme Court in *Rajneesh v. Neha* (2021) 2 SCC 324. During cross-examination, she admitted that a salary of ₹93,991/- had been credited to her account and that she had not filed income tax returns along with the affidavit.

6. The father, in his affidavit and oral evidence, claimed that he was unemployed since 2017. However, during cross-examination, he admitted that he had joined IFFCO Tokio under an offer letter showing a monthly CTC of ₹92,562/- and an annual CTC of ₹11,10,738/-, with a net in-hand salary of approximately ₹64,000/- per month. Upon appreciation of evidence, the learned Family Court observed that although the mother attempted to conceal her income, she admitted her monthly earnings. As regards the father, the Court disbelieved the plea of total unemployment in view of his own admissions and documentary material. Consequently, the Family Court partly allowed the application and directed the father to pay maintenance of ₹6,500/- per month to each minor

child.

7. Learned counsel for the father contended that the impugned order suffers from serious illegality and arbitrariness, as the learned Family Court failed to consider his actual financial capacity and wrongly ignored the substantial income of the mother. It was argued that liability ought to have been apportioned, and the father could not be saddled with the entire burden. He further contended that the Family Court erred in directing payment of maintenance from the date of application without recording reasons, contrary to the law laid down in *Jaiminiben Hirenbai Vyas v. Hirenbai Rameshchandra Vyas and Shail Kumari Devi v. Krishan Bhagwan Pathak*.

8. Learned counsel further submitted that due to several litigations, the father was unable to secure employment and was wholly dependent on his parents. It was also argued that the mother, who earns a substantial income and has been granted monetary relief under the Domestic Violence Act, deliberately suppressed material facts and obtained the impugned order by misrepresentation, attracting the principle that fraud vitiates all judicial acts as held in *S.P. Chengalvaraya Naidu v. Jagannath and Dalip Singh v. State of U.P.*

9. Learned counsel for respondent nos.2 & 3/minor children supported the impugned order and sought enhancement of maintenance. It was contended that the father is a well-qualified and able-bodied person with substantial earning capacity, who has deliberately concealed his true income to evade responsibility. It was argued that the learned Family

Court grossly underestimated the actual expenses of the children, ignoring rising educational costs, tuition fees, transportation, healthcare, and other necessities consistent with the status of the parties.

10. Learned counsel submitted that mere earning of the mother does not absolve the father of his statutory and moral obligation to maintain his children. Reliance was placed upon *Urvashi Aggarwal v. Inderpaul Aggarwal*, *Raghubar Singh v. State of Jharkhand*, and other judgments to contend that concealment of income warrants drawing adverse inference against the father. It was further argued that the father has not complied with even interim maintenance orders passed under the Domestic Violence Act, demonstrating willful neglect. The plea of unemployment was stated to be false and unsupported by credible evidence.

11. In rejoinder, learned counsel for the revisionist/father reiterated that he never neglected his children and that it was the mother who was unwilling to cohabit. It was contended that the mother, being financially independent, is capable of maintaining the children, and the impugned order deserves to be set aside.

12. Having heard learned counsel for both sides at length and after carefully examining the entire record, this Court is required to consider whether the impugned order dated 16.07.2022 passed by the learned Judge, Family Court, Haridwar suffers from any illegality, perversity or jurisdictional error so as to call for interference under revisional jurisdiction provided under Sections 397/401 Cr.P.C.

13. At the outset, it is well settled that proceedings under Section 125 Cr.P.C. are summary in nature. Their object is not to punish a party but to prevent destitution and vagrancy of wives and minor children. The jurisdiction exercised is protective and welfare-oriented. The scope of interference in revision is limited, and unless the order of the court below suffers from patent illegality, arbitrariness or perversity, the revisional court should not interfere merely because another view is possible.

14. In the present case, there is no dispute regarding the entitlement of minor children, to receive maintenance from their father. The only issue raised before this Court relates to the quantum of maintenance awarded and the allegation that the Family Court failed to properly consider the income of the mother and the plea of unemployment taken by the father.

15. The revisionist/father has claimed that he is unemployed and has no source of income. However, the learned Family Court has rightly examined this plea in the light of documentary evidence and the admissions made by the revisionist during cross-examination. The revisionist admitted that he was employed with IFFCO Tokio and that the offer letter issued to him reflected a monthly CTC of ₹92,562/- and an annual CTC of ₹11,10,738/-. He further admitted that his take-home salary was around ₹64,000/- per month.

16. It is a settled principle of law that a bald plea of unemployment cannot be accepted at face value, particularly when the person concerned is able-bodied, qualified and experienced. The revisionist is admittedly

an MCA graduate with substantial work experience. In such circumstances, the plea that he is unable to earn on account of pending litigations is not acceptable. An able-bodied person is presumed to have the capacity to earn, and intentional or voluntary unemployment cannot be used as an excuse to avoid statutory responsibility. The learned Family Court has therefore rightly drawn an adverse inference against the revisionist for not making a full and truthful disclosure of his income and employment details, in line with the principles laid down by the Supreme Court in *Rajneesh v. Neha* (2021) 2 SCC 324.

17. With regard to the income of the mother of minor children, the learned Family Court has duly considered the material on record and has recorded a clear finding that her monthly income is approximately ₹93,991/-. The court has also noted that though there was initially some lack of disclosure, the income stood clarified through her admission. However, the mere fact that the mother is earning does not absolve the father of his statutory and moral duty to maintain his minor children. The obligation of a father to maintain his children is independent and continues so long as the children are minors. Judicial precedents consistently hold that even where both parents are earning, the father cannot escape his responsibility, particularly when the children are residing with the mother and she is bearing the primary responsibility of their day-to-day care and upbringing.

18. The Family Court has not placed the entire financial burden upon the father. It has awarded a reasonable and moderate amount after considering the

income of both parents and the needs of the children. The contention that the liability ought to have been mathematically divided between the parents is misconceived. Section 125 Cr.P.C. does not require arithmetical apportionment. The maintenance of ₹6,500/- per month to each child, totalling ₹13,000/- per month, cannot be said to be excessive or disproportionate. Considering the rising cost of living, educational expenses and other daily needs of growing children, the amount appears reasonable and, in fact, on the lower side when seen in the light of the earning capacity of the revisionist.

19. The submission regarding adjustment of interim maintenance awarded in other proceedings is also devoid of merit. Any amount already paid under orders passed in parallel proceedings can always be adjusted at the stage of execution. This, by itself, does not render the impugned order illegal. Similarly, the direction to pay maintenance from the date of application is within the discretion of the court. It is settled law that maintenance may be awarded either from the date of application or from the date of the order. The learned Family Court has exercised this discretion judiciously, and no perversity or arbitrariness has been shown.

20. In so far as Criminal Revision No. 629 of 2022 filed by the minor children seeking enhancement of maintenance is concerned, this Court finds that revisional jurisdiction is not an appellate jurisdiction. Unless the maintenance awarded is shockingly low or manifestly unjust, enhancement cannot be granted merely on re-evaluation of facts. The Family Court has

exercised its discretion after proper appreciation of the evidence on record, and no exceptional circumstances have been shown to warrant enhancement at this stage.

21. In view of the above discussion, this Court is of the view that the impugned judgment and order dated 16.07.2022 passed by the learned Judge, Family Court, Haridwar does not suffer from any illegality, perversity or jurisdictional error. The maintenance awarded is reasonable and proportionate. The plea of unemployment taken by the revisionist/father is not bona fide, and the earning of the mother does not absolve the father of his obligation to maintain his minor children.

22. Accordingly, Criminal Revision No. 626 of 2022 filed by the father is dismissed.

23. Criminal Revision No. 629 of 2022 filed by the minor children seeking enhancement of maintenance is also dismissed.

24. Accordingly, The judgment and order dated 16.07.2022 passed by the learned Judge, Family Court, Haridwar is affirmed. Any amount already paid shall be duly adjusted in accordance with law. The arrears, if any, shall be cleared by the revisionist/father within a period of three months from today.

25. There shall be no order as to costs.

(ALOK MAHRA, J.)

Dated: 03.01.2026
Mamta