



Judgment Reserved on: 05.01.2026
Judgment Pronounced on: 11.03.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No.686 of 2023

Deepak KumarRevisionist

Vs.

State of Uttarakhand & AnotherRespondent

Presence: Mr. Bharat Singh, learned counsel for the Revisionist.
Mr. G.C. Joshi, Mr. Vipul Painuly, learned AGA with Mr. Rakesh Negi, learned
Brief Holder for the State.
Mr. Sanjeev Singh, learned counsel for Respondent No.2.

Hon'ble Ashish Naithani, J.

The present Criminal Revision has been filed under Sections 397/401 Cr.P.C. read with Section 19(4) of the Family Courts Act challenging the impugned order dated 24.07.2023 passed by the learned Additional Judge, Family Court, Roorkee, District Haridwar in Misc. Criminal Case No.210 of 2022 titled "*Aradhya Vs. Deepak Kumar*" under Section 125 Cr.P.C.

2. By the impugned order, the learned Family Court allowed the interim maintenance application filed on behalf of respondent no. 2 (minor child) and directed the revisionist to pay a sum of ₹8,000/- per month as interim maintenance from the date of filing of the application.

3. The marriage between the revisionist and the mother of respondent no. 2 was solemnized on 08.02.2018 according to Hindu rites and rituals. Out of the wedlock, a female child, namely respondent no. 2, was born.



4. Subsequently, disputes arose between the parties. The mother of the minor child moved an application under Section 125 Cr.P.C. before the Family Court, Roorkee seeking maintenance for the minor child. Along with the main petition, an application for interim maintenance was also filed.

5. The revisionist filed his written statement and objections to the interim maintenance application. After hearing the parties, the learned Family Court passed the impugned order granting interim maintenance of ₹8,000/- per month in favour of the minor child, payable from the date of the application.

6. Aggrieved by the aforesaid order, the present criminal revision has been preferred.

7. Learned counsel for the revisionist submits that the impugned order is illegal, perverse and passed without proper appreciation of the material available on record.

8. It is contended that both the revisionist and the mother of the minor child are serving in government employment. The revisionist is serving in CRPF, whereas the mother of the child is serving in CISF. Therefore, the learned Family Court erred in fastening the entire liability of maintenance of the child upon the revisionist alone.

9. It is further submitted that the mother of respondent no. 2 did not place on record complete details of her income nor annexed her salary slips, thereby concealing material facts. Despite such concealment, the learned Court below proceeded to fix interim maintenance.



10. Learned counsel argues that the revisionist is drawing a gross salary of approximately ₹63,702/- per month, out of which substantial deductions are made towards loan instalments. It is submitted that:

- o ₹6,454/- and ₹18,640/- are deducted towards loan repayments;
- o Approximately ₹4,000/- is spent towards personal expenses and food;
- o The revisionist is also responsible for maintaining his aged parents and younger siblings.

11. It is contended that the learned Court below did not properly consider the financial liabilities of the revisionist while determining the quantum of interim maintenance.

12. It is also argued that the interim maintenance has been awarded from the date of the application without assigning adequate reasons, though there was no deliberate delay attributable to the revisionist in contesting the proceedings.

13. Learned counsel submits that the impugned order is non-speaking and based on conjectures and surmises and therefore liable to be set aside.

14. Per contra, learned counsel for the respondents supports the impugned order and submits that the learned Family Court has passed the order after considering the material available on record.



15. It is contended that the minor child is legally entitled to maintenance from her father under Section 125 Cr.P.C., and the father cannot shirk his statutory obligation.

16. It is further submitted that the revisionist is a permanent government employee and earning a stable income; therefore, the quantum of ₹8,000/- per month awarded as interim maintenance for the minor child is reasonable and justified.

17. Learned counsel argues that the responsibility of maintaining the minor child primarily lies upon the father and the income of the mother does not absolve him of his obligation.

18. It is also contended that the learned Family Court has exercised its discretion judiciously and no illegality or perversity is made out warranting interference in revisional jurisdiction.

19. Heard learned counsel for the Parties and perused the records.

20. The present revision is directed against an order whereby the learned Family Court has allowed the interim maintenance application filed on behalf of the minor child and directed the revisionist to pay ₹8,000/- per month from the date of filing of the application under Section 125 Cr.P.C.

21. At the outset, it is not disputed that respondent no.2 is the minor daughter born out of the wedlock between the revisionist and her mother. The paternity of the child is admitted. Therefore, the statutory obligation



of the father to maintain his minor child under Section 125 Cr.P.C. is absolute, subject to proof of means and neglect.

22. The principal challenge raised by the revisionist is two folds:

- (i) that both parents are in government service and therefore the entire liability of maintenance ought not to have been placed upon him; and
- (ii) that the amount of ₹8,000/- per month is excessive in view of his financial liabilities and deductions.

23. It is settled that Section 125 Cr.P.C. is a social justice legislation intended to prevent destitution and vagrancy. The provision has to be interpreted liberally in favour of dependents. A minor child is entitled to be maintained in a manner commensurate with the status of the parents.

24. The contention that the mother is also earning does not ipso facto absolve the father of his statutory obligation. The father cannot avoid his responsibility merely because the mother is employed. However, it is equally true that while fixing the quantum of maintenance, the Court must consider the financial capacity of both parents so that the burden is fair and reasonable.

25. From the record, it appears that the revisionist is serving in CRPF and is drawing a gross monthly salary of approximately ₹63,000/- (as disclosed in his affidavit). It has been contended that deductions towards loan instalments and other liabilities substantially reduce his net take-home salary.



26. However, it is well settled that voluntary liabilities such as loan repayments cannot override the paramount right of a minor child to maintenance. Financial commitments undertaken by a parent cannot be cited as a ground to deny or reduce legitimate maintenance, unless the liabilities are shown to be unavoidable and compelling.

27. The revisionist has also contended that he has aged parents and siblings to support. While such responsibilities cannot be ignored altogether, they do not eclipse the statutory obligation towards a minor child. The duty to maintain a minor child stands on a higher pedestal.

28. The learned Family Court has assessed the material placed before it and has exercised its discretion in awarding ₹8,000/- per month as interim maintenance. Considering present inflation, rising cost of living, educational expenses, nutritional requirements and medical needs of a growing child, the said amount cannot be termed as excessive or arbitrary.

29. The argument that maintenance ought not to have been granted from the date of application also does not impress this Court. The discretion to grant maintenance either from the date of application or from the date of order is statutorily vested in the Court. In the present case, no perversity or misapplication of law has been demonstrated in granting maintenance from the date of application.

30. It is trite that the revisional jurisdiction of this Court under Sections 397/401 Cr.P.C. is supervisory and not appellate. This Court does not sit as a Court of re-appreciation of evidence unless there is manifest illegality, jurisdictional error, or gross perversity in the order impugned.



31. The impugned order reflects that the learned Family Court considered the pleadings and income details available on record before arriving at its conclusion. The order cannot be said to be arbitrary, capricious or without application of mind.

32. Interim maintenance is, by its very nature, provisional and subject to final adjudication upon full evidence. The revisionist will have adequate opportunity during trial to establish his contentions regarding income, liabilities and proportionate responsibility of the mother.

33. In the considered opinion of this Court, no such patent illegality, material irregularity or perversity is made out which would justify interference in revisional jurisdiction.

ORDER

34. For the reasons recorded above, the Criminal Revision lacks merit and is accordingly **dismissed**.

35. The impugned order dated 24.07.2023 passed by the learned Additional Judge, Family Court, Roorkee, District Haridwar in Misc. Criminal Case No. 210 of 2022 is hereby affirmed.

36. The revisionist shall continue to pay interim maintenance of ₹8,000/- per month to respondent no.2 in terms of the impugned order.

37. All pending applications, if any, stand disposed of.

38. No order as to costs.

(Ashish Naithani J.)
11.03.2026

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