

**HIGH COURT OF JUDICATURE AT ALLAHABAD****CRIMINAL REVISION No. - 5330 of 2025****[REDACTED]**

.....Revisionist(s)

Versus

[REDACTED].....Opposite
Party(s)

Counsel for Revisionist(s) : Satyarth Agarwal, Siddharth Agrawal
Counsel for Opposite Party(s) : G.A., Gaurav Dwivedi, Kamlesh
Kumar Dwivedi

AFR**Court No. - 87****HON'BLE LAKSHMI KANT SHUKLA, J.**

1. Heard Mr. Siddharth Agrawal, learned counsel for the revisionist, Mr. Kamlesh Kumar Dwivedi, learned counsel appearing for opposite party no. 2 and learned A.G.A. for the State.
2. Perused the record.
3. Revisionist Umesh Vidyarthi has approached this Court by means of present Criminal Revision challenging the impugned order dated 30.07.2025 passed by the Principal Judge, Family Court, Sonbhadra (hereinafter referred to as "the Trial Court") in Criminal Misc. Case No. 84 of 2020 **[REDACTED]** v. **[REDACTED]** under Section 125 Cr.P.C., Police Station Robertsganj, District Sonbhadra.
4. By the impugned order, the Trial Court has partly allowed the application for maintenance filed by opposite party no. 2 and directed the revisionist to pay maintenance to opposite party no. 2 at the rate of Rs.15,000/- per month from the date of institution of the application till 30.07.2025 and Rs. 20,000/- per month from the date of the order onwards as maintenance.
5. Feeling aggrieved from the aforesaid order, the revisionist preferred the present Criminal Revision on the ground that the impugned order suffers from manifest illegality and material irregularity inasmuch as the

quantum of maintenance awarded by the Trial Court is excessive and wholly disproportionate to the actual income of the revisionist. It is urged that the Trial Court has failed to correctly appreciate the material brought on record with regard to the income of the revisionist. The Trial Court has exercised its jurisdiction in an arbitrary manner.

6. It is further submitted that while deciding the proceedings under Section 125 Cr.P.C., the Trial Court has failed to take into consideration the directions issued by this Court in **Criminal Revision No. 3760 of 2023, Amit Bajpai v. State of U.P. and another, decided on 15.12.2023**, wherein it has been observed that where an application under Section 340 Cr.P.C. has been filed, the proceedings should ordinarily be concluded only after the said application is decided in accordance with law. According to the learned counsel, despite the pendency of the application under Section 340 Cr.P.C., the Trial Court proceeded to decide the maintenance proceedings without adjudicating the said application and without affording adequate opportunity to the revisionist to establish his allegations regarding fabrication and forgery of documents relied upon by opposite party no. 1.

7. Learned counsel for the revisionist further submits that pursuant to the order dated 10.07.2025 passed by this Court, an application under Section 340 Cr.P.C. was filed before the Trial Court. However, without deciding the said application, the Trial Court proceeded to pronounce the impugned judgment. It is thus contended that the procedure adopted by the Trial Court is contrary to law.

8. It is next submitted that opposite party no. 1 is residing separately without any sufficient cause. Attention of the Court has also been invited to the affidavit filed by opposite party no. 1. Pursuant to the directions issued by the Supreme Court in **Rajnesh v. Neha, (2020) 13 SCC 454**, wherein she has disclosed that she is an M.B.A. graduate and was previously employed but voluntarily left her employment. It is contended that she intentionally resigned from service only with a view to claiming maintenance from the revisionist, despite being capable of maintaining herself. It is also submitted that the declared monthly income of the revisionist is approximately Rs. 60,000/- only. His basic pay is Rs.

50,000/- per month. Therefore, the direction to pay maintenance at the rate of Rs. 20,000/- per month is excessive and deserves to be suitably reduced.

9. Per contra, learned A.G.A. and learned counsel appearing for opposite party no. 1 have vehemently opposed the Criminal Revision and supported the impugned order. It is submitted that the Trial Court has recorded a categorical finding in paragraph 31 of the impugned judgment that the revisionist himself admitted that his basic pay is Rs. 50,000/- per month and that he is serving as a Divisional Engineer in the Railways. In paragraph 32, the Trial Court has further recorded the admission of the revisionist that his monthly salary was Rs. 74,513/-. It is, therefore, contended that having regard to the admitted income of the revisionist, the maintenance awarded cannot be said to be excessive. Learned counsel further submits that with annual increments and revision of dearness allowance admissible to Central Government employees, the present monthly income of the revisionist would, in all probability, exceed Rs. 80,000/- per month. Accordingly, the maintenance awarded is fully justified and is in accordance with the principles laid down by the Supreme Court in **Rajnesh** (*supra*).

10. Learned A.G.A. as well as learned counsel for opposite party no. 1 submits that insofar as the grievance relating to non-disposal of the application under Section 340 Cr.P.C. is concerned, learned counsel for opposite party no. 2 submits that by the time the said application was filed, the evidence had already concluded, final arguments had been heard and the matter had been fixed for pronouncement of judgment. Therefore, no fault can be found with the Trial Court in proceeding to pronounce the judgment. It is submitted that had the revisionist been *bona fide*, he ought to have moved the application at an appropriate stage of the proceedings and not after conclusion of the final hearing. It is thus contended that the decision rendered in **Amit Bajpai** (*supra*) has no application to the facts of the present case.

11. When confronted with above, learned counsel for the revisionist submits that although the order of this Court was passed on 10.07.2025, the same was uploaded only on 21.07.2025, leaving the revisionist with

no effective opportunity to file the application under Section 340 Cr.P.C. before the Trial Court prior to the conclusion of the proceedings.

12. Having considered the rival submissions advanced by learned counsel for the parties and upon perusal of the record, this Court finds that the reliance placed by the revisionist upon the decision of this Court in **Amit Bajpai** (*supra*) is wholly misconceived.

13. In **Amit Bajpai** (*supra*), the application under Section 340 Cr.P.C. had been filed on 31.03.2022 and was duly registered as miscellaneous application. Despite the pendency of the said application, the Trial Court proceeded to decide the application under Section 125 Cr.P.C. on 14.06.2023 without considering the application under Section 340 Cr.P.C. It was in the peculiar facts of that case that this Court issued the directions relied upon by the revisionist.

14. The facts of the present case, however, stand on an entirely different footing. From the material brought on record, it transpires that the application under Section 340 Cr.P.C., registered as Application No. 76-ब/15 in Case No. 84 of 2020, was filed only on 22.07.2025 after conclusion of final arguments and when the matter had already been fixed for pronouncement of judgment. A perusal of the application dated 22.07.2025 reveals that an endorsement was made on the left margin stating "श्रीमान जी बहस पूर्ण होने के बाद दाखिल कर रहे हैं घोर आपत्ति है". Thereafter, in the said application another endorsement has been made at the bottom in the left side stating "कंप्यूटर से सत्यापित कराने के पश्चात पेश हो". The endorsements made on the application clearly indicate that the proceedings had reached the stage of final adjudication. In such circumstances, the Trial Court cannot be faulted for proceeding to pronounce the judgment without first deciding the application under Section 340 Cr.P.C.

15. It is also remarkable that proceedings contemplated under Section 340 Cr.P.C. are independent in nature and are not connected with the adjudication of proceedings under Section 125 Cr.P.C. Merely because an application under Section 340 Cr.P.C. is filed at the stage when the matter has already been reserved for judgment would not *ipso facto* oblige the

Trial Court to defer pronouncement of judgment. It is always open to the concerned party to pursue the proceedings under Section 340 Cr.P.C. independently in accordance with law.

16. In the opinion of this Court, therefore, the judgment rendered in **Amit Bajpai** (*supra*) does not advance the case of the revisionist and has no application to the facts of the present case.

17. So far as the quantum of maintenance is concerned, the Trial Court has taken into consideration the admitted income of the revisionist, the material available on record and the financial status of the parties before determining the amount payable. No perversity or illegality has been pointed out in the findings recorded by the Trial Court. This Court does not find the maintenance awarded at the rate of Rs. 20,000/- per month to be arbitrary, unreasonable or excessive warranting interference in exercise of revisional jurisdiction.

18. In view of aforesaid discussion, this Court is of the considered view that the impugned judgment and order does not suffer from any jurisdictional error, manifest illegality or material irregularity warranting interference by this Court. The present Criminal Revision is devoid of merit.

19. It is, accordingly, **dismissed**.

(Lakshmi Kant Shukla,J.)

July 13, 2026
Brijesh Maurya