

Court No. - 78**Case:-** CRIMINAL REVISION DEFECTIVE No. - 753 of 2024**Revisionist :-** Shabana Bano**Opposite Party:-** State of U.P. and Another**Counsel for Revisionist:-** Mujeeb Khan, Naveen Kumar**Counsel for Opposite Party:-** G.A., M. A. Siddiqui**Hon'ble Vinod Diwakar, J.**

1. Heard learned counsel for the revisionist-wife, learned counsel for the respondent-husband, learned A.G.A. for the State-respondent, and perused the entire record.
2. This present revision has been preferred seeking enhancement of the maintenance amount awarded by the learned Principal Judge, Family Court, Sonbhadra in Criminal Misc. Case No.387 of 2019, filed by the revisionist-wife on 17.8.2021.
3. Succinctly, the brief facts are that the revisionist-wife and the respondent-husband were married on 4.5.2002, according to Muslim rites and rituals. At the time of marriage, the respondent-husband was serving as a Civil Judge (Junior Division) at the District Court in Sonbhadra. Currently, he holds the position of Special Judge (UP Dacoity Affected Area) in District Etah and previously served as Additional Principal Judge at the Family Court in Jaunpur from 3.8.2019 to 4.7.2022. The revisionist-wife asserts that her parents spent approximately Rs.30 lakhs on the marriage. Additionally, during the engagement ceremony, Rs.11 lakhs were provided to purchase an Indica car; however, the respondent-husband declined to register the car in his name due to his recent judicial appointment. Shortly after

the marriage, the respondent-husband allegedly demanded an additional dowry of Rs.20 lakhs from the revisionist-wife's parents. When this demand was not met, he purportedly subjected her to cruelty, including physical assaults, beatings, verbal abuse, and threats of divorce.

4. The revisionist-wife endured all acts of cruelty because her husband was a judge who commanded significant respect in society. To preserve his honour and reputation and hoping that he would eventually change, she initially refrained from filing any complaints or maintenance applications. She also chose not to disclose his conduct to his colleagues or their spouses to maintain the family's honour. The couple has four children from their marriage; Km. Rana Rajak, Km. Nazia Rajak, Km. Subhana, and Isha Rajak, all of whom have been living with the respondent-husband since birth.

5. On 18.11.2013, the revisionist-wife was thrown out of the matrimonial home and was also served with a *Talaknama* dated 2.12.2013 along with a copy of Mufti's decision in this regard by post, which was accordingly returned and replied to by the revisionist-wife vide reply dated 30.12.2013 as a bundle of lies and false assertions.

6. Leaving no option for conciliation and compromise, on 20.1.2014, the revisionist-wife filed a Criminal Complaint No.366 of 2014 against her husband Ali Raza and 12 Others, under Sections 498-A, 504, 506, 323, 120-B IPC read with Section 3/4 of the Domestic Violence Act and two cases under Section 125 Cr.P.C. bearing Misc. Case No. 21 of 2014 and Misc. Case No.387 of 2021 on 30.1.2014 and 17.8.2019, respectively, against the respondent-husband before the learned Family Judge, Sonbhadra.

7. In Complaint Case No.366 of 2014, the learned Chief Judicial Magistrate, Sonbhadra, issued summons on 11.9.2015 to Ali Raza (respondent-husband), Abdul Rahim, Smt. Jahida Begum, Sohrab Ali,

Sabnam, Zareena, Shyara, Neha, Tarrunum, Babloo, Moin, and Smt. Ruksana under Sections 498-A, 323, 504, and 506 of the IPC, read with Sections 3/4 of the Dowry Prohibition Act and Hazrat Ali was summoned under Sections 498-A, 323, 354, 504, and 506 of IPC, read with Sections 3/4 of the Dowry Prohibition Act.

8. The order dated 11.9.2015 was challenged before this Court through Application U/S 482 No.32214 of 2025. On 3.11.2015, this Court referred the matter to the Mediation and Conciliation Center, directing the applicants to deposit a sum of Rs.15,000/- in the name of the revisionist-wife through a demand draft with the Registrar General of this Court within three weeks of the order. The mediation proceedings were to be concluded within three months. The Court also stayed the proceedings in Complaint Case No.366 of 2014 until the next date of listing.

9. Since then, the matter has been listed seven times before this court without any effective hearing, with the last listing on 27.11.2021. Consequently, the trial court proceedings have not advanced. Notably, this Court's order dated 27.4.2016 clarified that, *"it is clarified that the interim order of stay if there is any, is not extended."* However, the trial court failed to resume proceedings, repeatedly citing a repetitive order *"stay from the High Court"* since 2016. The matter has since been listed 65 times without further progress.

10. The Maintenance Application No.21 of 2014 was dismissed for want of prosecution on 1.3.2017. The revisionist-wife filed a restoration application, which was also dismissed. Subsequently, she filed a second application under Section 125 of the Cr.P.C., registered as Case No.387 of 2019. This application was dismissed on 20.5.2022 by the learned Principal Judge, Family Court, Sonbhadra, on the grounds of *res judicata*. The dismissal order dated 20.5.2022 was

challenged before this Court by way of Application U/S 482 No.2559 of 2023 by the revisionist-wife, which was allowed vide order dated 4.4.2023, with the direction to the learned Family Judge, Sonbhadra, to decide the Misc. Application No.387 of 2019 afresh on merits, preferably within a period of six months from the date of production of the certified copy of the order.

11. The learned Principal Judge, Family Court, Sonbhadra, in compliance with this Court's order dated 4.4.2023, issued a fresh notice to the respondent-husband. However, the respondent-husband failed to appear before the court. Consequently, the second maintenance application was partly allowed *ex-parte* vide order dated 3.10.2023, granting a maintenance amount of Rs.20,000/- per month, effective from the date of filing of the application before the court.

12. The maintenance order dated 3.10.2023 has not been complied with by the respondent-husband. Consequently, the revisionist-wife filed an Execution Application No.552 of 2023 under Section 128 Cr.P.C. for realization of the maintenance amount. Simultaneously, the revisionist-wife has challenged the impugned order dated 3.10.2023, seeking an enhancement of the maintenance amount before this Court through the present petition on the grounds stated *inter alia*: (i) the revisionist-wife has diligently and respectfully fulfilled her matrimonial obligations towards the respondent-husband. Out of their wedlock, three female and one male child were born. Despite this, the respondent-husband unjustifiably threw out the revisionist-wife from the matrimonial home on 18.11.2013. Furthermore, without her consent or knowledge, the respondent-husband married another woman who is 22 years younger to him, (ii) the first maintenance application under Section 125 Cr.P.C., filed on 13.1.2014, was erroneously dismissed in default by the learned Family Court under the undue influence of the respondent-husband, who holds the position of a sitting judge, (iii) the revisionist-wife's restoration

application was also improperly dismissed for non-prosecution by the learned Family Court, again under the undue influence of the respondent-husband, (iv) the second maintenance application was dismissed on the grounds of *res judicata* by the learned Family Court. However, this order was set aside by a co-ordinate Bench of this Court, who directed the case of the revisionist-wife to be decided on merits, (v) without properly considering the actual income and expenses of the respondent-husband, the application under Section 125 Cr.P.C. was only partially allowed, erroneously awarding a maintenance amount of Rs.20,000/- per month, (vi) the impugned *ex-parte* order has been passed in contravention of the law laid down by the Supreme Court in ***Rajnish v. Neha*¹; *Chaturbhuji v. Sita Bai*²; and *Shabana Bano v. Imran Khan*³**, (vii) the affidavit of assets and liabilities was neither filed by the respondent-husband nor sought by the learned Principal Judge, Family Court, for the reasons best known to the learned Family Judge. The application specifically averred that the respondent-husband had previously worked as a judge in the Family Court at Jaunpur and is one of the senior-most judges in the district judiciary. This fact was not taken into consideration by the court while deciding the maintenance application, (viii) the learned Principal Judge, Family Court, Sonbhadra, erroneously concluded that the revisionist-wife did not disclose the actual income of the respondent-husband. Consequently, the minimum salary of Rs.1,44,840/- for a district judge at the entry level, as per the second judicial pay commission, was mistakenly taken into account for the maintenance award. Furthermore, in the absence of any reply or affidavit of assets and liabilities from the respondent-husband, the court erroneously concluded that the respondent-husband has no independent source of income except his salary. The revisionist-wife's counsel has relied upon the judgments passed by this Court in ***Parul***

¹ (2021) 2 SCC 324

² (2008) 2 SCC 316

³ (2010) 1 SCC 666

*Tyagi v. Gaurav Tyagi*⁴ and *Rajesh Babu Saxena v. State of U.P. and others*⁵ in support of his arguments.

13. This is how the matter has reached this Court for the enhancement of the maintenance amount. For clarity, the revisionist-wife has filed two maintenance applications against the respondent-husband; (i) Misc. Case No.21 of 2014, and (ii) Misc. Case No.387 of 2019. Therefore, this Court deemed it appropriate in the given facts and circumstances to summon the complete judicial record pertaining to Misc. Case No.21 of 2014 and Misc. Case No.387 of 2019, titled *Shabana Bano v. Ali Raza*, along with a typed copy of all the orders passed, and the copies of the service reports submitted by the process server, in order to gain a comprehensive view of the proceedings conducted by the learned Principal Judge, Family Court, against respondent-husband. A notice was also issued to the respondent-husband at his official address at the Special Judge (UP Dacoity Affected Area), Etah, through the District Judge, Etah, directing him to file a counter-affidavit in response to the contentions raised by the revisionist-wife.

14. In response to the notice, the respondent-husband appeared through his counsel, Shri M.A. Siddiqui, and he sought for a week's time to file a counter affidavit in response to the contentions raised in the instant revision and to the proceedings conducted before the learned Family Court in Misc. Case No.21 of 2014 and Misc. Case No.387 of 2019- the maintenance applications under section 125 Cr.P.C.

15. Thus, in compliance with the order dated 10.5.2024, the learned Principal Judge, Family Court, transmitted the original record of both cases. Upon examination of the record in Misc. Case No.21 of 2014, it was revealed that (i) the case was repeatedly listed for hearing nearly

⁴ (2023) SCC OnLine All 2684

⁵ (2024) SCC OnLine All 2260

64 times, (ii) the first hearing was conducted on 15.1.2014, during which a notice was issued to the respondent-husband, and the case was posted for further proceedings on 22.2.2014, (iii) the order dated 19.3.2014 indicates that service was effected on the respondent-husband on the previous date, and despite providing sufficient opportunity, no one appeared on his behalf. Therefore, the case proceeded *ex-parte*, and it was again posted for 17.4.2014 for recording of evidence, (iv) the *ex-parte* order was recalled, and the matter was referred for mediation and conciliation. Similar orders were passed numerous times- more than 35 times. It was also observed in the order dated 28.8.2015 that the respondent-husband had been intentionally delaying the proceedings for ulterior reasons, (v) on 17.8.2015, the revisionist-wife filed an application for the award of interim maintenance, which was registered as Application No.30-G. This application was objected to by the opposite party, and despite the case being listed for nearly 47 times after the interim application for maintenance, it was never decided till the case was consigned to the records after being dismissed in default for non-appearance, (vi) the respondent-husband filed personal exemption applications 32 times, citing that he could not appear before the court for recording of evidence due to his leave application being declined. Unfortunately, all these personal exemption applications were allowed, (vii) a circular dated 03.07.2015 was issued by the Hon'ble Administrative Judge of District Sonbhadra, Lucknow Bench of this Court, directing the C.J.M., A.C.J.M., and Principal Judge, Family Court, to strictly adhere to the provisions related to adjournments, (viii) on many occasions, the revisionist-wife also filed personal exemption applications, mainly citing illness and unavailability, (ix) there is no record suggesting that the respondent-husband ever personally appeared either at the mediation and conciliation center to resolve the matrimonial dispute or before the court, (x) the case was

dismissed in default on 1.3.2017 for the non-appearance of the revisionist-wife, and (xi) the restoration application, bearing No.138 of 2017, filed by the revisionist-wife was also dismissed in default on 8.2.2018 for non-appearance.

16. Upon examination of the record in Criminal Misc. Case No.387 of 2019, it is revealed that; (i) the second maintenance application was filed on 17.8.2019 on a fresh cause of action. Accordingly, notice was issued to the opposite party after hearing the applicant's counsel, and the case was listed for 19.8.2019 for filing objections and mediation, (ii) the case was listed nearly 42 times, (iii) the order dated 12.3.2020 indicates that the notice to the opposite party was served on 17.2.2020 through registered post, (iv) on 15.2.2021, the revisionist-wife filed an application to proceed *ex-parte*, as the registered postal receipt (i.e., the track consignment report) confirmed delivery of the notice at the District Court in Jaunpur, where the respondent-husband was posted at the time. However, the application was surprisingly rejected, with the finding of the court that service *via* postal receipt cannot be considered valid service under the law, as it is deemed secondary evidence according to the relevant provisions of the Indian Evidence Act, 1872 and the Code of Civil Procedure (C.P.C.), (v) vide order dated 3.3.2023, the court proceeded *ex-parte*, observing that for the past two years, no one has appeared on behalf of the opposite party, and sufficient time has been given for the opposite party to file objections, (vi) the order dated 22.3.2022 indicates that the revisionist-wife/applicant filed a list of witnesses through affidavits of PW-1, PW-2, and PW-3. The recording of *ex-parte* evidence was concluded, and the case was listed for arguments on 2.4.2022, (vii) a downloaded copy of the service record for the respondent-husband has been marked as Document No.37B/2, (viii) an affidavit of assets and liabilities, filed by the revisionist-wife in accordance with the judgment in *Rajnish v. Neha case (supra)*, has been marked as 49-B/1,

(ix) a letter dated 19.7.2023, issued by Shri Rajendra Singh-IV, the learned Principal Judge of Sonbhadra, to the Registrar General of the High Court, Allahabad, requesting the service of summons to the respondent-husband and directing him to appear before the Family Court on 9.8.2023, (x) a letter dated 7.8.2023, by the Officer-In-Charge, Central Nazir, District Court, Etah, informing the Registrar General of this Court about the service on the respondent-husband, has been marked as 53-B/1, (xi) there are numerous orders of miscellaneous nature, in which either the respondent-husband or the revisionist-wife has moved personal exemption applications citing various reasons, (xii) the order dated 25.4.2022 suggests that the objection raised by the respondent- husband and the documents filed in his support shall be considered as evidence. This was allowed vide order dated 29.4.2022, and after hearing the revisionist-wife, the maintenance application was dismissed on the ground of *res-judicata* on 20.5.2022, (xiii) aggrieved by the order dated 20.5.2022, the revisionist-wife filed Application No.35559/2023 under Section 482 Cr.P.C. for setting aside the order. This application was allowed vide order dated 4.4.2023, with the direction to the learned Family Judge to decide the maintenance application on merits, preferably within six months.

17. In compliance with the order dated 27.5.2024, a counter affidavit was filed by the respondent-husband. Upon examination, it's revealed that the counter affidavit has not been filed in conformity with the order dated 27.5.2024, despite being given proper opportunity. Therefore, the respondent-husband was directed to appear in person before this Court on 11.6.2024. On 11.6.2024, the respondent-husband appeared in person, along with a copy of a supplementary counter affidavit, which was taken on record. The respondent-husband was also heard in person and confronted with numerous orders passed by the learned Family Judge in Misc.

Application No.21 of 2014 and Misc. Application No.387 of 2019. The first query was why, despite being involved in litigation since 2014, he has not personally appeared before any court or mediation centre to resolve the issue amicably; his answer was in complete silence. The respondent-husband was then confronted with the findings recorded by the Principal Judge, Family Court, Sonbhadra, in the order dated 3.10.2023, whether notice was served to him through the Registrar General of this Court. He was asked why it was necessary for the Presiding Officer to effect the service through Registrar General of this Court. Again, his answer was in complete silence. The respondent-husband was also confronted with various orders passed by the learned Principal Judge, Family Court, but he chose not to respond. It is important to note that both cases were listed almost 106 times before the learned Family Court.

18. In the counter affidavit dated 29.5.2024, filed by the respondent-husband, it is stated that the respondent-husband has no house in his name, except for one ancestral house in his village, which is shared equally among his four brothers. The respondent-husband purchased a residential plot on 19.12.2019 for Rs.28,40,000/- at village Murgai Pargna Arail, District Prayagraj, which was communicated to the High Court. The possession of the flat could not be delivered to him due to a dispute pending before the RERA Court in Lucknow. Subsequently, the respondent-husband purchased another residential plot measuring 40 x 50 feet situated at village Siromanpur, Pargna Khairagarh, Meja, Bharatganj, District Prayagraj, for Rs.25 lacs. This information was also provided to the High Court. The respondent-husband is responsible for taking care of the well-being of four siblings: **(i)** Km. Rana Rajak, aged about 20 years, **(ii)** Km. Nazia Rajak, aged about 18 years; **(iii)** Subhana, aged about 13 years; and **(iii)** Isha Raza, aged about 14 years; all of whom are studying, and a significant amount is being spent on their education. Additionally, the

respondent-husband has employed a driver, for which he pays Rs.1,60,000/- annually towards salary. It is also mentioned that the revisionist-wife is a well-educated lady, having graduated from Bhau Devras Government College, Dudhi, Sonbhadra, and is capable of earning for her maintenance. Therefore, he claims that he is not in a position to pay Rs.20,000/- per month towards maintenance.

19. In the first counter affidavit, the respondent-husband did not provide the necessary details required under Enclosure-I, as mandated in ***Rajnish v. Neha case (supra)***. Consequently, he was directed to file a supplementary affidavit. Upon examination of the supplementary affidavit dated 19.6.2024, it is revealed that from 2019 to 2022, when the revisionist-wife had filed the second maintenance application, the respondent-husband's gross salary was Rs.1,59,773/- per month, with a net salary of Rs.99,373/- after deductions. In the financial year 2020-2021, his gross salary was Rs.1,63,189/- per month, with a net salary of Rs.1,12,789/- after deductions. In the financial year 2022-2023, his gross salary was Rs.2,01,734/-, and he was receiving Rs.1,31,334/- as net salary. For the financial year 2023-2024, his gross salary was Rs.3,18,960/- per month, with a net salary of Rs.2,23,560/- per month.

20. The respondent-husband has also invested Rs.12,69,201.39/- in equity shares for the future welfare of his dependents. He further states that he has two bank accounts; account no.42197838591 and account no.31417926245 with SBI bank. He was unable to provide the last two years' account statements for account no.31417926245 due to time constraints. The respondent-husband also mentions that the revisionist-wife has been residing separately since 18.11.2013, and he issued a *Talaq* on 3.12.2013. In addition to the above details, the respondent-husband has filed a copy of his reply submitted to the Principal Judge, Family Court, Sonbhadra, in Case No.384 of 2014, under Section 126(2) Cr.P.C. This reply outlines the reasons for his

non-appearance before the learned Family Court, as well as details regarding the restoration application and the recall of the *ex-parte* order. The affidavit also contains allegations against his counsel, who did not appear before the learned Principal Judge, Family Court, despite instructions to diligently and effectively defend the respondent-husband.

21. Upon examination of the trial court records, posting details uploaded on the official website of this Court, and the impugned order, this Court notes that the respondent-husband is a judicial officer. He joined the Judicial Service as a Munsif/Civil Judge on 4.7.2001 and was promoted to the Higher Judicial Services under Rule 22(1) of the U.P. Higher Judicial Services Rules, 1975, on 17.2.2018. Since then, the respondent-husband has served in various capacities. Between 3.8.2019 and 4.7.2022, he worked as an Additional Principal Judge, Family Court, at Jaunpur, and is currently serving as a Special Judge (U.P. Dacoity Affected Area) at Etah.

22. The record further shows that the revisionist-wife filed an application under Section 125 Cr.P.C., registered as Case No.21/2014, which was dismissed in default on 1.3.2017 for non-appearance and restoration application on 08.02.2028 after being listed 64 times. During this period, the application for interim maintenance was also not decided by the court, even though case was listed 47 times till it was dismissed in default by court after filing the application for interim maintenance. Specific allegations were made in that application regarding cruelty and willful desertion by the respondent-husband, including (i) that he was working as an Additional Sessions Judge at Jaunpur, (ii) his salary was Rs.1,50,000/- per month, and (iii) he owned his own house and agricultural lands, in addition to other properties, and earned approximately Rs.2,50,000/- per month. Based on these averments, the revisionist-wife claimed maintenance of Rs.1,00,000/- per month.

23. The record further reveals that the revisionist-wife then filed a second maintenance application under Section 125 Cr.P.C., which was registered as Misc Case No.387 of 2019. This application was dismissed on 20.5.2022 on the ground of *res judicata*. Thereafter, the revisionist-wife challenged the order dated 20.5.2022 under Section 482 Cr.P.C. before this Court. This Court, by order dated 4.4.2023, restored Misc Case No.387 of 2019 to its original number and directed the learned Family Judge to decide the case on its merits within six months. The Principal Family Judge, Sonbhadra, became aware of the order dated 4.4.2023 on 13.7.2023, following which a notice dated 9.8.2023 was served to the respondent-husband through the Registrar General of this Court. Despite receiving the notice on 9.8.2023, the respondent-husband did not appear before the Court to present his defense in response to the Section 125 Cr.P.C. application. As a result, the learned Family Court proceeded to pass an impugned *ex-parte* order on the merits against the respondent-husband.

24. Upon examining the impugned order, it is evident that the learned Family Judge ascertained the respondent-husband's income based on a letter dated 30.6.2023 issued by the Judicial Section, Government of Uttar Pradesh, concerning the Second Pay Commission's implementation report and not based on the statement of the revisionist-wife and respondent-husband's salary- an open secret for a serving Judge. The Principal Judge, Family Court, awarded maintenance of Rs.20,000/- per month to the revisionist-wife from the date of filing the application under Section 125 Cr.P.C filed in 2019. The Family Judge, Sonbhadra, observed that based on the documents filed by the revisionist-wife and the perusal of the order dated 22.07.2022, it could not be determined whether the respondent-husband holds the position of entry-level officer in the district cadre or a selection-grade officer. Therefore, his actual salary could not be accurately assessed, but it is clear that his salary must be at least

Rs.1,44,840/- per month, as per the second national judicial pay commission.

25. It is surprising that the learned Family Judge was unaware of the salary structure for High Judicial Service Officers in Uttar Pradesh and, for the reasons best known to him, erroneously assumed the respondent-husband's salary to be equivalent to the salary of an entry-level judicial officer in the cadre of district judge to ascertain his actual income. Needless to say, both - learned Judge Family Court, Sonbhadra and respondent-husband - have been serving in the District Judge Cadre in Uttar Pradesh and are Judge for almost 25 years; both were posted as Civil Judge (Junior Division) in Sonbhadra between 2003-2004. Shockingly, the learned Presiding Judge, Family Court, Sonbhadra, remains unaware of the respondent-husband's basic pay, whether he holds the position of selection grade level or entry grade level. Without making any comments on the learned Judge's wisdom and impartiality, as he is not present before this court, I leave it for him to self-introspect and realize. However, I must express my disappointment that the learned Principal Judge, Family Court, has not been fair and impartial towards the revisionist-wife and has failed to uphold the law and the directions issued by the constitutional courts concerning the award of maintenance to a wife in sting of judgements.

26. Learned counsel for the revisionist-wife relied upon ***Parul Tyagi case (supra)***, and ***Rajesh Babu Saxena's case (supra)***. The relevant portion of Rajesh Babu Saxena's case is extracted herein below:

“19. The concern and anguish were expressed by the Supreme Court in Shamima Farooqui v. Shahid Khan³ the Supreme Court was of the view that an application for grant of interim maintenance has to be disposed of at the earliest. When the wife applies for a grant of maintenance, the delay in the disposal of the application, to say the least, is an unacceptable situation. It is, in fact, a distressing phenomenon. These litigations can corrode human relationships not only today but will also impact

for years to come, potentially taking a toll on society. The Court must have complete control over the proceeding and not permit the lis to swim the unpredictable grand river of time without knowing when it shall land on the shores or take shelter in a corner tree that stands “still” on some unknown river bank. It cannot allow it to sing the song of the brook, “men may come, and men may go, but I go on forever.” This would be the greatest tragedy to the adjudicating system, which is required to deal with the most sensitive matters between the man and wife or other family members relating to matrimonial and domestic affairs. There has to be a proactive approach in this regard, and the said approach should be instilled in the Family Court Judges by the Judicial Academies functioning under the High Courts. The delay occurs due to the uncontrolled design of the parties or the lethargy and apathy shown by the Judges who man the Family Courts.

20. The object of maintenance proceedings is not to punish a person but to prevent vagrancy by compelling those who can support those who cannot support themselves and have a moral claim to support them. Section 125 Cr. P.C. measures social justice⁴. It is specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India⁵. The object of maintenance is to prevent the vagrancy and destitution of a deserted wife by providing her food, clothing, and shelter through a speedy remedy. It affects a man's fundamental rights and natural duties to maintain his wife, children and parents who cannot maintain themselves⁶.

21. The maintenance allowance to the wife is the absolute maintenance right. The husband cannot absolve himself from his obligation to provide maintenance merely on the plea of financial constraints and inability to earn despite being able-bodied.

27. The courts should adhere to constitutional principles and legal precedents established by the Constitutional Courts, employing a consistent and rational approach. The underlying and fundamental tenet behind Section 125 of the Criminal Procedure Code aims to improve the financial circumstances and alleviate the emotional distress endured by a woman when compelled to depart

from the marital residence. The principle of sustenance gets more heightened when the children are with her.”

27. In the ***Parul Tyagi case (supra)***, this Court thus held:

“51. Purity of judicial administration is necessary; a condition precedent for success of independence of administration of justice. In essence, the equal, uniform and consistent application of law is the hallmark of the judicial administration. The primary reason for enforcing superior courts’ guidelines is to preserve the authority and credibility of the judiciary. If their guidelines are routinely ignored, for whatever reasons, it erodes public trust in the legal system and sets dangerous precedents. It can lead to inconsistent application of the law, which undermines the principles of legal certainty.

52. The non-adherence of the Supreme Court guidelines by subordinate courts undermines the very essence of the rule of law, leading to unequal treatment leading to erosion of judicial precedent, perpetuating injustice and inequality, loss of public confidence in the judiciary by the citizens, and a fragmented legal landscape, where each court operates independently.

65. Litigants approach the courts with grievances, seeking resolution and redress for their issues. Their cases are not just legal matters but significant aspects of their lives, rights, and property are involved. The outcome of the case can profoundly impact their well-being, livelihood, and sense of security.

70. This Court has also noticed on numerous occasions that the application/petitions for maintenance by legally wedded wives and old-aged parents are kept pending for years and years without an effective hearing, and they are not timely decided or attended to.

71. In due course or over time, when a litigant finally receives some relief from the Court after a long and arduous legal battle, it may not serve the immediate purpose. By the time, the litigant get relief from the courts, have already endured substantial hardship and uncertainty. The associated stress, financial burdens, and emotional tolls makes a litigant disappointed.

73. Efforts to expedite the legal process and provide timely relief are crucial for the effectiveness of justice and ensuring that litigants receive fair and meaningful outcomes. It is essential for the judges to recognise the significance of time in the pursuit of justice and work towards reducing delays, improving efficiency, and providing a sense of closure to those seeking redress through the legal system.

28. The conduct and approach of the respondent-husband are deeply concerning for the reasons that he is not an ordinary individual without means or resources, rather he is an educated and capable person with a background in law and extensive experience in the dispensation of justice. The role of a judge is critical in maintaining public trust in the judiciary and fostering a culture where rights are upheld, laws are respected, and matrimonial disputes are resolved amicably.

29. It is true that judges, like all individuals, are entitled to the rights guaranteed to every citizen, but they must also be mindful of the elevated status and respect afforded to them, and such status comes with a greater responsibility to discharge personal, social, and judicial duties in a manner that upholds the rule of law. Unfortunately, the respondent-husband has failed to meet these expectations, thereby undermining the principles of justice and the values he was entrusted to uphold.

30. The legal profession has long been anchored in principles of honesty and integrity, forming its foundation and ensuring the proper administration of justice. These virtues are particularly emphasized for judges, whose role is central to dispensing justice impartially and equitably. However, when members of the judiciary themselves become embroiled in personal litigation, the focus shifts to a critical intersection and needs to deal with greater caution and responsibility.

31. Judges are not mere adjudicators of law; they embody the legal system's credibility and are held to the highest standards of

accountability. Their professional integrity must, without fail, be reflected in their personal conduct. Judges involved in personal litigation face a dual standard of scrutiny. It is undisputable that a judge's personal actions in court influence public perception of the judiciary. If a judge appears vindictive, manipulative, or unreasonably combative, it risks undermining public trust in the legal system.

32. A judge embroiled in litigation must tread carefully to ensure their actions do not conflict with the principles they espouse in the courtroom and shall adhere to procedural fairness. Judges should remain mindful that their conduct, even as private citizens, reflects on the institution they represent.

33. The conduct of the respondent-husband would seriously prejudice the rights of the revisionist-wife, firstly, because she has been living a destitute life since 2018. The respondent-husband has been a Judicial Officer since 2001 and is well aware of the rights of a wife under Section 125 Cr.P.C. for maintenance. Instead of fulfilling his obligations, he has chosen to prolong the case through various legal manoeuvres, delaying justice. The precious time of the revisionist-wife has been consumed in court battles. Additionally, he remarried a woman without the knowledge and consent of his first wife, even though he claims to have divorced the revisionist-wife in the year 2018. However, this fact has been seriously contested and disputed by the revisionist-wife. The learned Judges failed to observe this, and thus, he deserves no sympathy from this Court.

34. Section 397(1) of the Cr.P.C. empowers the High Court or the Sessions Judge to call for and examine the records of any proceeding before a subordinate criminal court. This provision ensures the correctness, legality, or propriety of any finding, sentence, or order and the regularity of the proceedings. The purpose of revisional power is to prevent miscarriage of justice, and the revisional court may

exercise this power *suo motu* to rectify errors that go to the root of the case, ensuring justice is served. When revisional powers are applied prudently, these powers reinforce public trust in the judiciary by ensuring that justice is not only done but also seen to be done.

35. Based on aforesaid deliberations, it is concluded that the Mis. Case No. 21/14 was dismissed in default erroneously by the trial court. The case was listed for hearing nearly 64 times, and no substantial proceeding has been conducted by the learned Family Judge ensuring the objective enshrined in Article 19 of the Constitution of India read with 125 Cr.P.C. The revisionist-wife filed an application for interim maintenance on 18.5.2017, and despite the case being listed for nearly 47 times after the interim application for maintenance, the said application remained undecided till the case was dismissed for non-prosecution. The learned Family Judge repetitively adjourned the case without recording reasons, and nearly 32 times personal exemption application was allowed on the same ground that his leave application has not been sanctioned. Therefore, the orders dated 1.3.2017 and 8.2.2018 passed in Miscellaneous Case No.21 of 2014 are found to be legally unsustainable and thus set- aside.

36. As held in the case of ***Rajnish v. Neha case (supra)***, the Court is vested with the discretion to grant maintenance either from the date of the application or from the date of the order under Section 125(2) Cr.P.C. The Supreme Court concluded that it would be appropriate to grant maintenance from the date of the application in all cases, including applications under Section 125 Cr.P.C. The respondent-husband has been contesting the cases vigorously and avoiding his obligation to pay maintenance by using all possible influences and misusing the court procedures since 2014. Therefore, the objectives enshrined under Article 19 and Section 125 Cr.P.C., as well as the directives of the constitutional courts, would be fulfilled by awarding

the maintenance from the date of filing of Miscellaneous Case No.21 of 2014.

37. Accordingly, in light of the foregoing discussions, the present revision petition is allowed with the following directions:

(a) The respondent-husband shall pay Rs.20,000/- per month to the revisionist-wife from the date of filing of the first maintenance application, i.e., Case No. 21 of 2014, until 16.8.2019, and thereafter Rs.30,000/- per month from 17.8.2019 onwards, i.e. from the date when the Case No. 387/19 was filed.

(b) The monthly maintenance amount shall be deposited directly into the account of “*Shabana Bano*” (Account No. 701510110006536, IFSC Code BKID0007015, Bank of India, Dudhi Sonbhadra Branch) from the respondent-husband’s salary account, commencing with the next month’s salary,

(c) The learned Principal Judge, Family Court, Sonbhadra, is directed to calculate the outstanding arrears in accordance with this Court’s directions within three weeks of receiving this order.

(d) The respondent-husband is further directed to pay litigation costs of Rs.50,000/- to the revisionist-wife.

(e) The respondent-husband is given liberty to approach the Principal Judge, Family Court, Sonbhadra, to pay arrears in instalments. However, the learned Principal Judge, Family Court, Sonbhadra, shall ensure that the outstanding maintenance amount is fully paid to the revisionist-wife within the next six months. If any amount has already been paid, the same shall be adjusted accordingly.

38. The office is directed to send back the trial court records to the concerned court forthwith.

39. The Registrar (Compliance) is directed to communicate a copy of this order forthwith to the learned Principal Judge, Family Court,

Subhadra, and the District Treasury Officer, Etah, for necessary compliance.

Order Date: 13.12.2024

Anil K. Sharma

Justice Vinod Diwakar