



2026:AHC:185295

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 1828 of 2025

Smt. Sonia Varshney Alias Sonia Gupta and another
.....Revisionist(s)
Versus

State of U.P. and another
.....Opposite Party(s)

Counsel for Revisionist(s)	: Rajesh Kumar Singh
Counsel for Opposite Party(s)	: G.A., Rajesh Kumar Srivastava

AFR
RESERVED ON: 08.07.2026
DELIVERED ON: 03.08.2026

Court No. - 87

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Heard Sri Rajesh Kumar Singh, learned counsel for the revisionists, learned A.G.A. for the State and Mr. Rajesh Kumar Srivastava, learned counsel for O.P. No. 2.

Facts of the Case

2. The revisionists, Smt. Soniya Varshney alias Soniya Gupta and Km. Astha Gupta, have approached this Court by means of the present criminal revision assailing the impugned order dated 18.01.2025 passed by the Additional Principal Judge, Family Court No. 2, Allahabad (hereinafter referred to as the "Trial Court") in Execution Case No. 627 of 2023, whereby the Trial Court rejected the application under Section 128 Cr.P.C. filed by the revisionists.

3. Feeling aggrieved by the aforesaid order, the present criminal revision has been filed on the grounds that the impugned order is arbitrary, illegal and has been passed without proper appreciation of the material available on record. It is further contended that the impugned order has

been passed in disregard of the order passed by this Court and, therefore, amounts to contempt of the order of this Court. Accordingly, a prayer has been made to set aside the impugned order.

4. The factual matrix of the case, in brief, is that the revisionists filed Maintenance Case No. 365 of 2002 on 23.08.2002, Smt. Soniya Varshney v. Mukul Gupta. In the said case, the concerned Court, vide order dated 23.10.2007, directed the employer of O.P. No. 2 to furnish his salary slip. Against the aforesaid order dated 23.10.2007, O.P. No. 2 filed an application under Section 482 Cr.P.C., bearing Criminal Misc. Application No. 26399 of 2007, wherein an interim order dated 28.11.2007 was passed directing Opposite party No. 2 to pay Rs. 18,000/- per month to revisionist No. 1 and Rs. 10,000/- per month to revisionist No. 2.

5. The maintenance proceedings in Case No. 365 of 2002 were dismissed on 09.12.2010 for want of prosecution, whereas the Application under sec. 482 Cr.p.c No. 26399 of 2007, was also ultimately dismissed for want of prosecution on 19.05.2022.

6. The marriage between revisionist No. 1 and O.P. No. 2 was dissolved on 20.05.2019 by a decree of divorce passed in Divorce Petition No. 1994 of 2008 filed by O.P. No. 2 on the ground of cruelty. The divorce petition filed by revisionist No. 1 was also dismissed by the same order, holding that the grounds of divorce raised by her could not be established.

7. The case of the revisionists is that O.P. No. 2 initially complied with the order of this Court dated 28.11.2007 up to May, 2019, but thereafter stopped making the payment.

Submissions on behalf of the Revisionists

8. Learned counsel for the revisionists submitted that, in the aforesaid factual matrix, the order dated 28.11.2007 is still operative. It is further submitted that no specific period of operation of the said order was

prescribed therein. It is also contended that, even if it is held that the order ceased to operate upon dismissal of Criminal Misc. Application No. 26399 of 2007 under Section 482 Cr.P.C. on 19.05.2022, the revisionists would, at least, be entitled to recover the arrears of maintenance accrued prior to the said date.

9. In his written submissions, learned counsel for the revisionists has stated that O.P. No. 2 not only left revisionist No. 1, his wife, but also left revisionist No. 2, the minor daughter, when she was about two years of age. Revisionist No. 1 thereafter bore the entire responsibility for the maintenance and education of the minor child, who is presently pursuing an MBBS course, and has incurred substantial expenditure towards her maintenance and education.

10. Learned counsel has further relied upon the judgment of the Hon'ble Supreme Court in **Rajnesh v. Neha and another, (2021) 2 SCC 324**, wherein the Hon'ble Supreme Court has held that merely because the wife is earning, she is not disentitled to claim maintenance from her husband, particularly where the income of the husband is substantially higher. It is submitted that the wife is entitled to maintain a standard of living comparable to that which she enjoyed while residing with her husband.

11. Learned counsel further submitted that the object of maintenance law, being a measure of social justice, is to provide financial support to the wife and children so as to prevent them from falling into destitution. It is further submitted that O.P. No. 2 is employed in a multinational company and is receiving a substantial annual package. It is also alleged that he has a shareholding in the company which he has deliberately failed to disclose before the Court. Accordingly, it is contended that the outstanding maintenance amount of Rs. 28,000/- per month from 2019 till date is liable to be paid by O.P. No. 2 to the revisionists.

12. Learned counsel for the revisionists has also relied upon the law laid down by the Hon'ble Supreme Court in **Rajnesh (supra)**, particularly

Part-B of the judgment, wherein the Hon'ble Supreme Court has observed as under:

“Guidelines/Directions on Maintenance

Maintenance laws have been enacted as a measure of social justice to provide recourse to dependent wives and children for their financial support, so as to prevent them from falling into destitution and vagrancy.

Article 15(3) of the Constitution of India provides that :

"Nothing in this article shall prevent the State from making any special provision for women and children."

Article 15(3) reinforced by Article 39 of the Constitution of India, which envisages a positive role for the State in fostering change towards the empowerment of women, led to the enactment of various legislations from time to time.

Justice Krishna Iyer in his judgment in Captain Ramesh Chander Kaushal v. Mrs. Veena Kaushal & Ors., (1978) 4 SCC 70 held that the object of maintenance laws is:

"9. This provision is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39. We have no doubt that sections of statutes calling for construction by courts are not petrified print but vibrant words with social functions to fulfil. The brooding presence of the constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social relevance. So viewed, it is possible to be selective in picking out that interpretation out of two alternatives which advances the cause of the derelicts."

The legislations which have been framed on the issue of maintenance are the Special Marriage Act, 1954 ("SMA"), Section 125 of the Cr.P.C., 1973; and the Protection of Women from Domestic Violence Act, 2005 ("D.V. Act"), which provide a statutory remedy to women, irrespective of the religious community to which they belong, apart from the personal laws applicable to various religious communities."

13. It is, thus, contended by learned counsel for the revisionists that the impugned order is liable to be set aside and O.P. No. 2 be directed to pay the arrears of maintenance and continue to pay the same in future.

Submissions on behalf of O.P. No. 2

14. *Per contra*, learned counsel for O.P. No. 2 vehemently opposed the present criminal revision and, in his written submissions, raised certain objections. It is submitted that no final order of maintenance was ever passed by the learned Additional Principal Judge, Family Court, Allahabad.

15. It is further submitted that revisionist No. 1 filed an application under Section 128 Cr.P.C. before the Trial Court seeking enforcement of the interim maintenance granted by this Court vide order dated 28.11.2007, which, according to learned counsel, was not maintainable.

16. O.P. No. 2 had specifically pleaded that in Maintenance Case No. 365 of 2002 filed by the revisionists, no final order of maintenance had been passed and that the said case had been dismissed for want of prosecution on 09.12.2010. It is, therefore, submitted that the application under Section 128 Cr.P.C. filed by revisionist No. 1 was not maintainable. The said application has subsequently been rejected on merits by the Trial Court vide the impugned order.

17. It is further submitted that on 26.04.2024, revisionist No. 1 filed a second Application under Section 125 Cr.P.C. being Case No. 409 of 2024, without first seeking restoration of Maintenance Case No. 365 of 2002 and, by filing the said second application, she had accepted the order dated 09.12.2010 passed in Maintenance Case No. 365 of 2002.

18. It is further submitted that revisionist No. 1 subsequently filed an application for restoration/recall of the order dated 09.12.2010, which was rejected vide order dated 19.05.2022 after hearing both the parties.

19. Learned counsel has further submitted that revisionist No. 1 is a chronic litigant and has instituted various proceedings against O.P. No. 2. It is submitted that O.P. No. 2 is residing in London and is a British citizen and that he has incurred substantial expenditure in defending the various proceedings instituted by revisionist No. 1.

20. It is further submitted that the aforesaid aspect has also been noticed by the Lucknow Bench of this Court vide order dated 24.04.2019 passed in proceedings under Section 24 C.P.C. in Case No. 36/34 of 2019. It is also submitted that even after the decree of divorce dated 20.05.2019, revisionist No. 1 instituted a criminal complaint bearing Case No. 980 of 2025 under Section 494 IPC, which is stated to be pending.

21. Revisionist No. 1 also filed Special Leave Petition (Criminal) No. 8112 of 2024 before the Hon'ble Supreme Court seeking transfer of the proceedings from Lucknow to Allahabad, which was dismissed by the Hon'ble Supreme Court.

22. Learned counsel for O.P. No. 2 has referred to various other facts in his written submissions. However, as the same are not relevant for adjudication of the present revision, this Court does not deem it necessary to refer to all such facts.

23. Learned counsel for O.P. No. 2 further submitted that, so far as the applicability of the law laid down by the Hon'ble Supreme Court in **Rajnesh** is concerned, the present proceedings arise out of an order passed on an application under Section 128 Cr.P.C. This Court, in exercise of revisional jurisdiction, is not required to determine afresh the quantum of maintenance or undertake an assessment of the economic condition of the parties. The limited question before this Court is whether any enforceable order of interim maintenance was in existence and, if so, whether the revisionists were entitled to recover the same.

24. It is further contended that though O.P. No. 2 was not duty-bound to pay interim maintenance as ordered by this Court in the application

under Section 482 Cr.P.C., bearing Criminal Misc. Application No. 26399 of 2007, to the revisionists after cessation of the said interim order, he continued to make such payments for a considerable period. It is contended on behalf of O.P. No. 2 that he is entitled to recover the payment so made to the revisionists.

25. It is, thus, contended that the present criminal revision has no force. According to learned counsel for O.P. No. 2, the revision is misconceived, amounts to an abuse of the process of the Court and proceeds on a misinterpretation of the order passed by this Court.

26. Learned counsel for O.P. No. 2 further submitted that an interim order passed in any proceeding is intended to operate till the final adjudication of the rights and liabilities of the parties in that proceeding, unless its operation is specifically extended. The purpose of an interim order is to grant interim relief to a party till the legal rights and entitlement of the parties are finally adjudicated. Upon final adjudication or termination of the substantive proceedings, the interim order ordinarily ceases to operate in accordance with the nature and terms of the final order.

27. In view of the aforesaid submissions, it is contended that the revisionists lost their entitlement to claim the benefit of the interim maintenance order dated 28.11.2007 passed by this Court in proceedings under Section 482 Cr.P.C. upon termination of the substantive maintenance proceedings in Maintenance Case No. 365 of 2002 and not merely upon dismissal of Criminal Misc. Application No. 26399 of 2007 on 19.05.2022. It is, therefore, submitted that the present criminal revision is liable to be dismissed.

Question for Consideration

28. In view of the rival submissions advanced by learned counsel for the parties, the principal question which arises for consideration before this Court is whether the interim order dated 28.11.2007 passed by this Court

in Criminal Misc. Application No. 26399 of 2007 continued to subsist and remain enforceable under Section 128 Cr.P.C. after dismissal of Maintenance Case No. 365 of 2002 on 09.12.2010.

Analysis and Findings

29. It is trite law that an interim order ordinarily operates during the pendency of the proceedings in which it has been passed, subject to the terms of the order and the final adjudication in those proceedings.

30. In the case of **National Bal Bhawan and another Vs. Union of India and others reported in (2003) 9 SCC 671**, the Supreme Court observed in paragraph 4 as under:

“4. It is no longer res integra that once a writ petition is finally disposed of by the High Court, any interim order passed in pending writ petition merges with the final order. If the respondents were aggrieved by the interim order in terms of which the writ petition was disposed of, it was incumbent upon the respondents either to have amended the memo of appeal by challenging the final order passed by the Single Judge of the High Court or ought to have preferred fresh letters patent appeal against the final order passed by the Single Judge.”

31. In the case of **State of West Bengal and others Vs. Banibrata Ghosh and others reported in (2009) 3 SCC 250** it was held by the Apex Court in para 28 which reads as follows:

“28....The Interim Order does not decide the fate of the parties to the litigation finally, it is always subject to and merges with the final order passed in the proceedings.....”

2. In the case of **Prem Chandra Agarwal and another v. Uttar Pradesh Financial Corporation and others reported in (2009) 11 SCC 479** it was held by the Apex Court as under:-

“3....Once a final order is passed, all the earlier interim orders merge into the final order, the interim orders cease to exist...”

33. In the present case, it is noteworthy that in Maintenance Case No. 365 of 2002, no order awarding interim maintenance was passed by the Family Court. The Family Court had only directed the employer of O.P. No. 2 to furnish his salary slip so as to ascertain his financial position and capacity to maintain the revisionists. The said order was challenged by O.P. No. 2 in proceedings under Section 482 Cr.P.C., bearing Criminal Misc. Application No. 26399 of 2007, wherein this Court passed the interim order of maintenance. Subsequently, the main maintenance proceedings in Case No. 365 of 2002 came to an end upon its dismissal for want of prosecution on 09.12.2010. Resultantly, the interim order passed during the pendency of the proceedings arising from the said case cannot be treated as continuing indefinitely after the termination of the substantive proceedings, unless otherwise directed by the competent court. The order of interim maintenance dated 28.11.2007 also became infructuous *de jure* and the O.P. No. 2 was not duty bound to comply with the same after that. But, unfortunately due to inadvertence or lack of awareness, O.P. No.2 continued to comply with infructuous interim maintenance order till May, 2019 and even on 19.5.2022 when the proceedings under Section 482 Cr.P.C. bearing Criminal Misc. Application No. 26399 of 2007 was dismissed for want of prosecution, such a maintenance order became infructuous *de facto*.

34. Having heard the rival submissions and upon perusal of the record this Court has no hesitation in observing that the purpose of an interim order is to provide interim relief to a party pending final adjudication, though the final adjudication may ultimately be in favour of either party. Once the matter is finally adjudicated, the interim order merges into the final order. Interim relief granted in a case has no independent existence and remains subject to the final adjudication. If the final adjudication is in favour of the beneficiary of the interim relief, the interim relief merges into the final order; however, if the final adjudication ends against the beneficiary of the interim relief, such interim relief ceases to be operative. Not only this, if the Court finds that, on account of the interim order, one party has suffered a loss while the other has derived

an undue benefit, the Court may order restitution so as to restore the position which would have prevailed before the interim order. In other words, if the Court, while finally deciding the matter, finds that a party has derived benefit from an interim order of the Court but has ultimately failed in the proceedings and his claim has been rejected, the Court may, in exercise of its discretion, direct such person to restore the benefit obtained pursuant to the interim order.

35. In view of the aforesaid, this Court hold that the Trial Court would not have been justified in allowing the prayer of the revisionist. The Trial Court rightly held that the revisionist was not entitled to the relief prayed for. We do not find any irregularity, illegality or jurisdictional error in the impugned order. The present Criminal Revision fails and is liable to be dismissed.

36. Accordingly, the present Criminal Revision is hereby **dismissed**.

37. This Court places on record its appreciation for the valuable assistance rendered by **Ms. Gargee Mishra, Research Associate**. She has undertaken research on the factual as well as legal issues involved in the present criminal revision and has rendered invaluable assistance to the Court in examining the relevant facets of the matter and bringing the pertinent cases laws to the notice of the Court. Her diligent research, thoughtful assistance and sincere efforts have greatly facilitated the Court in its consideration and adjudication of the issues involved.

(Lakshmi Kant Shukla,J.)

September 03, 2026

RPD