

A.F.R.

Neutral Citation No. - 2024:AHC:192598

Reserved on: 10.6.2024

Delivered on: 9.12.2024

Court No. - 78

Case: CRIMINAL REVISION No. - 2948 of 2024

Revisionist: [REDACTED]

Opposite Party: State of U.P. and Another

Counsel for Revisionist: Braj Mohan Singh

Counsel for Opposite Party : G.A., Sudhir Mehrotra

Hon'ble Vinod Diwakar,J.

1. Heard Shri Sudhir Mehrotra, learned *Amicus Curiae*, learned counsel for the revisionist-wife, learned A.G.A. for the State-respondent, and perused the record.

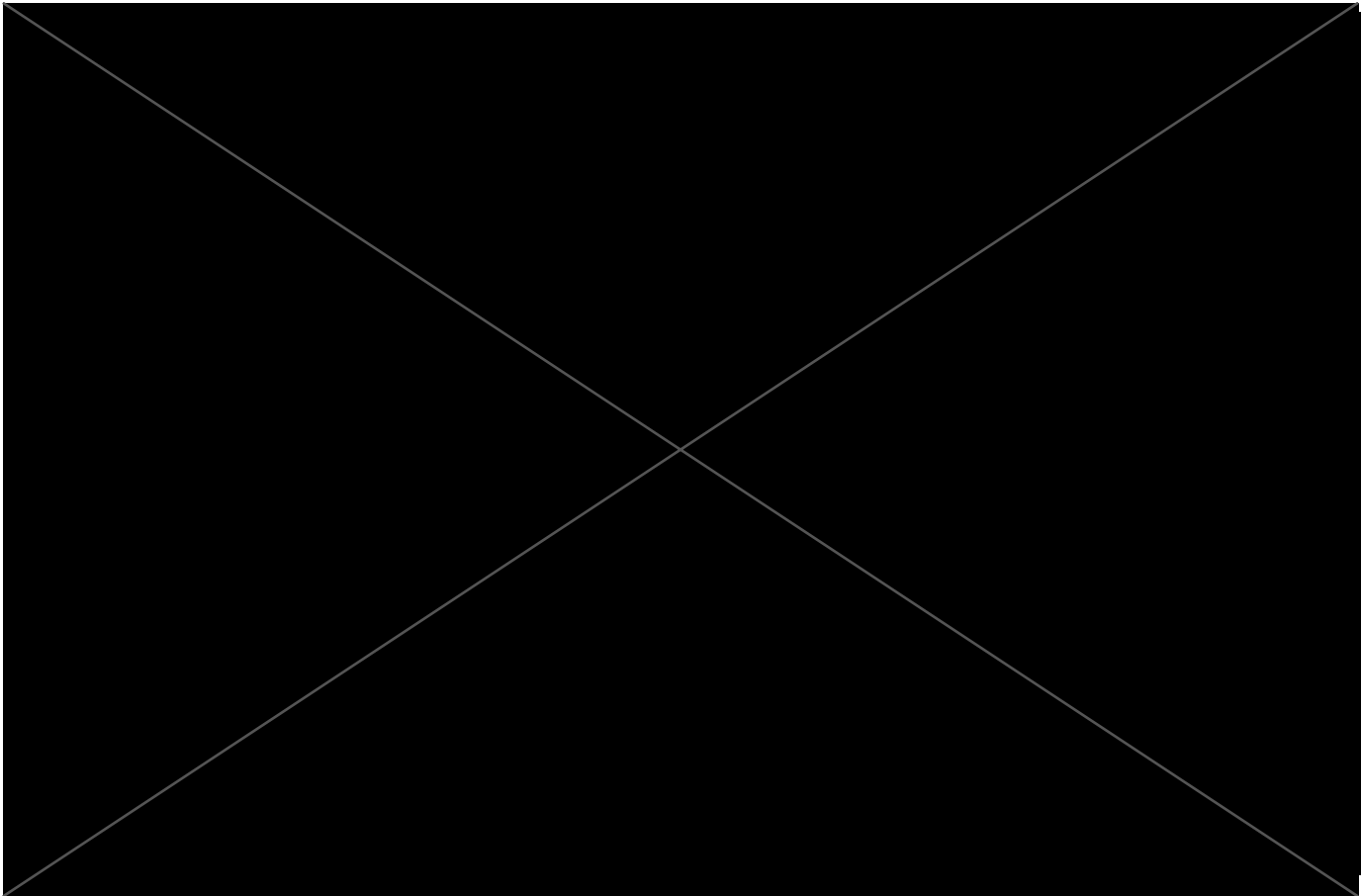
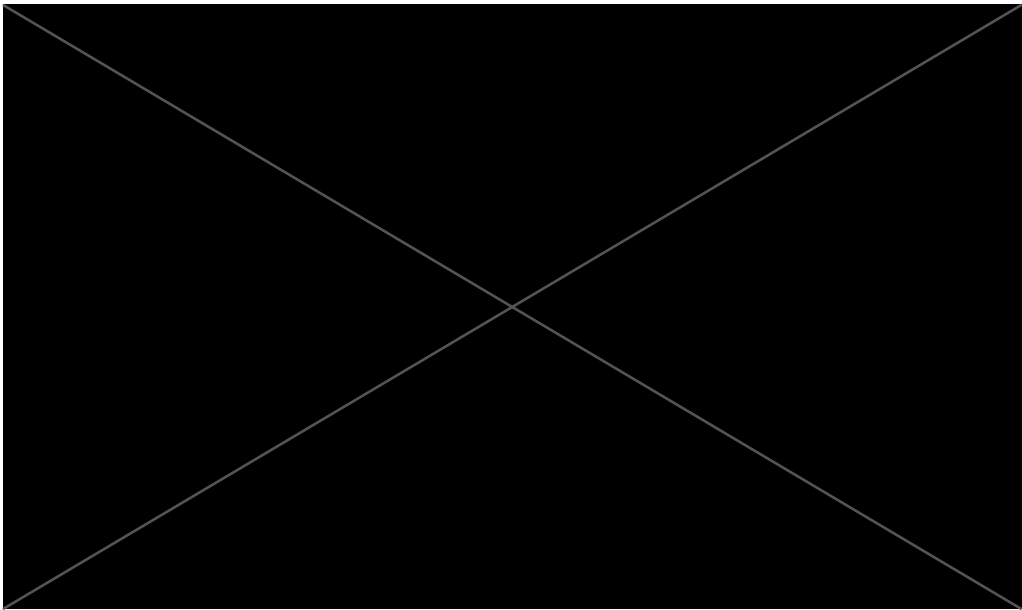
2. Succinctly, the brief facts outlined in the application filed u/s 125 Cr.P.C. by the revisionist-wife are that the revisionist-wife married to respondent-husband on 2.7.2012 as per Hindu rites and ceremonies and approximately Rs.10 lacs were spent on the solemnization of the marriage by the revisionist-wife's parents. The revisionist-wife was discharging all the matrimonial obligations, and on 8.3.2015, a baby girl was born out of the said wedlock, who is residing with the revisionist-wife. Despite performing all matrimonial obligations, the in-laws started raising demands of dowry and perpetuating cruelty on the revisionist-wife mentally and physically both. The younger brother of the respondent-husband had attempted to outrage the modesty of the revisionist-wife many a times, to which she complained to her husband, but he continued to do so as the revisionist-wife's husband kept silent. On 16.12.2024, a panchayat was convened in the village. The family members from the in-laws side were persuaded to keep the revisionist-wife in good condition, but the respondent-husband kept on perpetuating cruelty to the

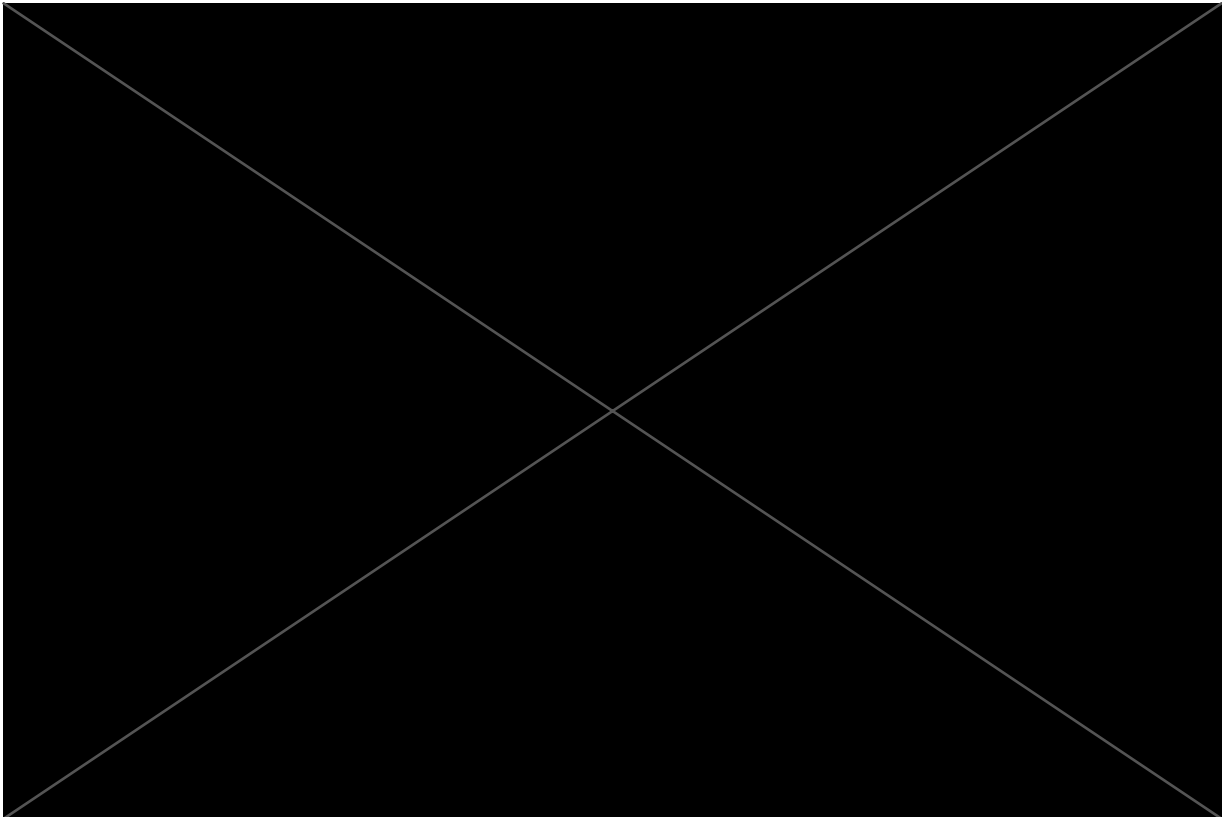
revisionist-wife. On 25.12.2017, the respondent-husband's younger brother attempted to commit rape upon the revisionist-wife, and when she complained to her husband, she was assaulted and abused in filthy language. A medical was also conducted on 27.12.2017 at the District Hospital Saharanpur. Since 27.12.2017, the revisionist-wife has been living separately, and lastly stated that the respondent-husband works as a Supervisor in a factory, and besides the job, he also owns a welding machine at Fatehpur Road and earns more than Rs.45,000/- per month, whereas revisionist-wife has no source of income, and she is living a life of destitute.

3. The respondent-husband has refused to maintain the revisionist-wife, therefore, she had approached the learned Family Judge for maintenance by way of application u/s 125 Cr.P.C. wherein the learned Additional District Judge/Fast Track Court-II/Family Judge, Saharanpur vide order dated 19.4.2019 awarded Rs.5000/- per month to the revisionist-wife and Rs.3000/- per month to the minor child till she attains the age of majority or solemnization of her marriage, towards maintenance, but the respondent-husband has not paid even a single penny to the destitute wife. Aggrieved by the order dated 19.4.2019, the respondent-husband approached the learned Family Court by way of application u/s 126(2) Cr.P.C. for setting aside the *ex-parte* order dated 19.4.2019, which was allowed vide order dated 17.1.2023, and the *ex-parte* maintenance order dated 19.4.2019 was set aside and restored to its original number and status subject to cost of Rs.1500/-. Thereafter, on 30.11.2023, the application was erroneously dismissed for want of prosecution.

4. Feeling aggrieved, the revisionist-wife has preferred the instant revision petition assailing the legality and validity of the impugned order dated 30.11.2023 passed by the learned Additional Principal Judge, Family Court, Saharanpur, in Criminal Misc. Case No.12 of

2018 (new Case No.21/2018). The impugned order, along with the endorsement made by the revisionist-wife on the order sheet, are extracted herein below:





5. It is anomalous that despite having a grudging endorsement by the destitute revisionist wife, who has been regularly visiting the courts since 2018 and had lost all hope from the learned Family Court to get timely justice, she thus made the aforesaid endorsement with hope and expectation that a better sense would prevail on the learned Family Judge to decide her maintenance application pending almost for last six years undecided. She regularly attended the court proceedings diligently and perhaps had no idea of the endorsement's consequences and outcome; the learned Additional Principal Judge, Family Court, dismissed the maintenance petition for non-prosecution and consigned the file to the records mechanically with the most insensitivity.

6. After examining the handwritten endorsement of the revisionist-wife on the court's order -sheet, a report was called from all the learned Family Courts of District Saharanpur with regard to the compliance of guidelines issued by the Supreme Court and this Court from time to time. The relevant portion of the order dated 1.5.2024 is reproduced herein below:

*“.....This Court finds that the impugned order is not only erroneous but also immoral and inhuman, therefore, the Principal Judge, Family Court is directed to file a compliance report of his own court along with all courts that comes under his control and supervision with regard to the compliance of guidelines issued by Supreme Court in **Rajnish v. Neha and another (supra)**; and this Court in **Smt. Parul Tyagi v. Gaurav Tyagi (supra)** and **Rajesh Babu Saxena v. State of U.P. and another (supra)**. The compliance report shall be placed in accordance with para 87 to 90 of **Smt. Parul Tyagi case (supra)** of each cases u/s 125 Cr.P.C. pending disposal before the Family Courts of Saharanpur, on or before the next date fixed....”*

7. In compliance with the order dated 1.5.2024, learned Principal Judge Family Court, Saharanpur, has submitted a report stating that the Family Courts are adhering to the directions issued by the Supreme Court in ***Rajnish v. Neha and another, (2021) 2 SCC 324, Smt. Parul Tyagi v. Gaurav Tyagi, (2023) SCC OnLine All 2684, and Rajesh Babu Saxena v. State of U.P. and another*** passed in ***Criminal Revision Defective No.1789 of 2023*** in letter and spirit.

8. I deem it appropriate not to discuss the contents of the report in detail as the learned Judge -in- charge Family Court has flagged certain issues that are concerned with the administration of the affairs of learned Judges of the Family Court and assured this Court that the Family Courts have started complying with the directions issued in the above-referred judgments.

9. On returning to the merits of the case, by previous order dated 1.5.2024, this Court remanded the instant case to the learned Principal Judge Family Court, Saharanpur, to ensure compliance with guidelines issued in aforesaid cases while deciding the applicant's case afresh. This Court hopes that the applicant's case must have been decided in accordance with the judgements referred to herein above and, if not, then shall be decided within three weeks from the date of receipt of the copy of the order on merits.

10. Acknowledging the facts of the case and the realities of prolonged court proceedings, this Court emphasizes the urgent need for learned Family Court judges to exercise their judicial mind with heightened sensitivity and responsibility. The judicial system must prioritize the expeditious disposal of maintenance cases of destitute women who are left without support from their parents, in-laws, or husbands, ensuring that justice is not delayed for those struggling for basic maintenance and dignity in society. One of the essential aspects of timely justice lies in retaining the essence of sensitivity towards the cause at hand and upholding the judiciary's societal responsibility. Therefore, learned family court judges must perform their judicial duties with heightened responsibility, sensitivity, and a steadfast commitment to delivering timely justice while upholding judicial discipline and propriety.

11. The Registrar (Compliance) is directed to transmit a copy of this order to the Director JTRI to sensitise the judicial officers during regular training sessions to observe judicial discipline and maintain judicial propriety in following directions issued by the Supreme Court in the *Rajnesh case (supra)* and directions issued by this court in *Smt. Parul Tyagi case (supra)*, and *Rajesh Babu Saxena case (supra)* in letter and spirit. A checklist of essential points, including a clear outline of do's, should be prepared and circulated among the learned family court judges from time to time accordingly.

12. With the aforesaid observations, the instant revision is disposed of.

Order Date: 9.12.2024
Anil K. Sharma

Justice Vinod Diwakar