

**Smt. Kalpana Joshi, Master Ayush Joshi @ Gaurav Joshi through his
mother and Natural Guardian Smt. Kalpana Joshi and Ayushi Joshi
through his Mother and Natural Guardian Smt. Kalpana Joshi Vs Pradeep
Kumar Joshi and Shri Suresh Punetha**

Court: Uttarakhand High Court

Date of Decision: Sept. 12, 2011

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 125, 127

Hon'ble Judges: Prafulla C. Pant, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Prafulla C. Pant, J.
Heard.

2. This revision is directed against the judgment and order dated 8.10.2010, in Miscellaneous Case No. 13 of 2010, whereby Respondent has

been directed to pay maintenance at the rate of Rs. 3,000/- per month to each of the revisionists, u/s 127 Code of Criminal Procedure.

3. Brief facts of the case are that Respondent Pradeep Kumar Joshi got married to revisionist No. 1 Kalpana Joshi on 07.03.1996. Two children

(one son and one daughter) born out of the wed-lock. They are living with their mother in Haridwar. Respondent is posted in D.A.R.L., Field

Station Panda Farm, Pithoragarh. Earlier, the application u/s 125 Code of Criminal Procedure, was moved by the revisionists in which Judge,

Family Court, Haridwar, vide his order dated 22.08.2010, directed the Respondent to pay maintenance at the rate of Rs. 2,000/- per month to

each of the revisionists (in all Rs. 6,000/- per month). It appears that the Respondent started making payment of maintenance at said rate.

4. Thereafter, the revisionists (wife and the two children) moved an application u/s 127 Code of Criminal Procedure, before the trial court (Judge,

Family Court, Haridwar) claiming enhancement in the maintenance which was partly allowed by the trial court vide impugned order dated

08.10.2010, enhancing the amount of maintenance from Rs. 2,000/- per month to Rs. 3,000/- per month to each of the revisionists (in all Rs.

9,000/- per month). Aggrieved by said order further enhancement in the maintenance is sought in this revision.

5. On behalf of the revisionists, attention of this Court is drawn to the salary slip of the Respondent which is annexed as Annex. 1 to the

supplementary affidavit dated 19.11.2010, which shows that after deductions the carry home salary of the Respondent is Rs. 23,037/- per month.

Learned Counsel for the parties agreed that the revisionist No. 2 master Ayush Joshi @ Gaurav Joshi aged 13-14 years, and revisionist No. 3

Km. Ayushi Joshi, aged 10-11 years are school going children. Considering the economic status of the parties, this Court finds that the trial court

has rightly enhanced the amount of maintenance to Rs. 3,000/- per month for each of the two children. It is pleaded before this Court that the

amount awarded to Respondent No. 2 Smt. Kalpana Joshi (wife) is insufficient. Having considered submissions of learned Counsel for the parties,

and after going through the papers on record, including copy of salary slip, this Court finds that revisionist No. 1 Kalpana Joshi is entitled to

maintenance at the rate of Rs. 5,000/- per month.

6. Accordingly, this revision is partly allowed. Revision of revisionist No. 1 Kalpana Joshi is allowed with the modification in the impugned order to

the extent that Respondent Pradeep Kumar Joshi shall pay Rs. 5,000/- per month as maintenance to his wife (instead of Rs. 3,000/- per month) in

terms of the impugned order. However, the revision of the remaining two revisionists Ayush Joshi @ Gaurav Joshi and Km. Ayushi Joshi is hereby

dismissed. With this modification in the impugned order the revision stands disposed of. The Respondent shall continue to pay Rs. 3,000/- per

month to the revisionist No. 2 till he attains the age of majority, and Rs. 3,000/- per month to revisionist No. 3 till she gets married.