

15. Learned counsel for the respondent No.2 further submitted that respondent No.2 was compelled to take shelter at her parental place due to maltreatment, harassment and torture given to her by the revisionist. She is a qualified lady, but she is not working women, she is not having any independent source of income and she had dependent on her parents for her necessary expenses. The revisionist being husband of the respondent No.2 is under obligation to maintain her, but he has neglected to pay maintenance to her, which resulted in filing of present petition under Section 125 Cr.P.C. before the Hon'ble Court.

16. Hon'ble Supreme Court in **Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy AIR (2017) SC 2383** placing reliance on a earlier judgment in **Dr. Kulbhushan Kumar vs. Raj Kumari and Anr. (1970) 3 SCC 129**, in this case, it was held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent-wife. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the capacity of the spouse to pay maintenance. Maintenance is always dependent on the factual situation of the case and the court would be justified in moulding the claim for maintenance passed on various factors. Therefore, without disturbing the broad findings of fact given by learned court below, the amount of maintenance awarded to the applicant is being modified as below.

17. Considering the rival submissions of the learned counsel for the parties, totality of the facts and circumstances of the case, it cannot be held that due to non-compliance of mandatory directions of Hon'ble Supreme Court in **Rajnesh Vs. Neha and another (supra)** before the court below, the impugned judgment and gets vitiated under law. This court in revisional stage has assured compliance of mandatory directions of Hon'ble Supreme

Court in **Rajnesh Vs. Neha and another (supra)** to avoid any further delay in final disposal of the matter. The purpose of filing affidavit of disclosure of assets and liabilities is to clarify the stand of the parties in maintenance case, their assets, liabilities and economic condition show that the court may be in a position to out the truth and come to just decision in the case.

18. After giving a thoughtful consideration on submissions of learned counsel for the parties and on meticulous examination material available on record, I find no illegality, irregularity or perversity in the impugned judgment and order passed by learned court below, the revision is devoid of merit and deserves to be **dismissed**.

19. However, revisionist is given a leverage to pay the arrear of maintenance in installments, it is directed that the arrear of maintenance from date of filing of application to date of impugned judgment will be paid in three monthly installments, and first installment will be payable on 27.02.2025 and other two installments will be payable in subsequent months.

20. The revisionist will pay and continue to pay the post judgment maintenance at the rate of Rs.15,000/- per month as directed in the impugned order on regular basis.

(2025) 2 ILRA 419

ORIGINAL JURISDICTION

CRIMINAL SIDE

DATED: ALLAHABAD 06.02.2025

BEFORE

THE HON'BLE MS. NAND PRABHA SHUKLA, J.

Transfer Application (Criminal) No. 672 of 2024

Smt. Kavita Chaudhary ...Applicant
Versus
State of U.P. & Ors. ...Opposite Parties

Counsel for the Applicant:

Mohit Kumar Jaiswal, Nasiruzzaman

Counsel for the Opposite Parties:

Aditya Gupta, G.A.

Criminal Law-The Code of Criminal Procedure, 1973-Section 407- Witness Protection Scheme, 2018

-Transfer application on the ground that respondents are practicing Advocates and the applicant being a poor widow is under their threat perception and is unable to procure any competent Lawyer to contest her case---Directions issued that in case, the applicant/first informant or any of the witnesses approaches the authorities concerned by moving an application seeking protection under the Witness Protection Scheme, 2018 in the light of directions given by the Hon'ble Supreme Court in the case of Mahendra Chawla & ors.Vs U.O.I.& ors., (2019) 14 SCC 615 for a free and fair trial, the authorities concerned shall ensure that the adequate security be provided to the applicant and the witnesses till the conclusion of the trial. **(Para 7)** (E-15)

List of Cases cited:

Mahendra Chawla & ors. Vs U.O.I. & ors.(2019) 14 SCC 615

(Delivered by Hon'ble Ms. Nand Prabha Shukla, J.)

1. Heard Sri Nasiruzzaman, learned counsel for the applicant, Sri Gopal Chaturvedi, learned Senior Advocate assisted by Sri Aditya Gupta, learned counsel for the opposite party nos. 2 to 4 and Sri Ratan Singh, learned A.G.A. for the State and perused the record.

4. In this regard, a report was sought on 17.01.2025 from the Presiding Officer concerned.

5. Pursuant to the same, the report of the concerned Presiding Officer dated 30.01.2025 endorsed by District Judge,

2. The present application under section 407 of Cr.P.C. has been filed by the applicant seeking transfer of Sessions Trial No. 30 of 2024 (State vs. Nitin Dagar and others) in Case Crime No.547 of 2023, under Sections 302/34, 120B/302 IPC and Section 3/25/27 of Arms Act, P.S. Sihani Gate, District Ghaziabad pending in the Court of Additional Sessions Judge, Court No.13, Ghaziabad to be transferred to any other competent Court at Aligarh mainly on the ground that respondent nos. 2 and 3 are the practicing Advocates and the applicant being a poor widow is under their threat perception and is unable to procure any competent Lawyer to contest her case.

3. Learned counsel for the applicant has contended that threats have been extended by the opposite party no. 2 Nitin Dagar from the jail whereas the co-accused opposite party no.3 Amit Dagar and opposite party no. 4 Anuj @ Palu have extended threats from outside the jail. Amit Dagar and Nitin Dagar are the practicing Advocates at Ghaziabad and due to which the applicant is not able to engage a competent Advocate. Further, it has been asserted that the applicant being a poor widow, is staying at Aligarh alongwith her father Vijay Singh and her brother Dinesh Singh, who is an eye witness account in the said Sessions Trial. The applicant is apprehensive for their life and limb and has even approached the police authorities to provide them the security guards.

Ghaziabad has been received, reporting that amongst the three named accused, two of them are the officiating members of the Bar. It has further been informed that adequate security was provided to the applicant Smt. Kavita Chaudhary who already has been examined as P.W.1 and

have further ensured to provide security to the witnesses during the recording of their evidence.

6. Per contra, learned counsel for the opposite party nos.2 to 4 has opposed the aforesaid prayer but agreed to cooperate in the trial proceedings.

7. Upon hearing learned counsel for the parties and after taking into consideration the entire facts and circumstances, it transpires that the trial is at the stage of evidence and the applicant/informant was provided adequate security at the time of the recording of the evidence as PW-1 and further considering the fact that the applicant has not brought on record any real apprehension of threat from the respondents accused but looking to the convenience of the parties and in the interest of justice, it is hereby provided that in case, the applicant/first informant or any of the witnesses approaches the authorities concerned by moving an application seeking protection under the **Witness Protection Scheme, 2018** in the light of directions given by the Hon'ble Supreme Court in the case of **Mahendra Chawla and others vs. Union of India and others, (2019) 14 SCC 615** for a free and fair trial, the authorities concerned shall ensure that the adequate security be provided to the applicant and the witnesses till the conclusion of the trial.

8. With the aforesaid directions, the present application stands **disposed of**.

(2025) 2 ILRA 421

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: LUCKNOW 14.02.2025

BEFORE

THE HON'BLE ATTAU RAHMAN MASOODI, J.

THE HON'BLE SUBHASH VIDYARTHI, J.

Special Appeal No. 70 of 2025

Prashant Kumar Mishra & Ors.

...Petitioners

Versus

State of U.P. & Ors.

...Respondents

Counsel for the Petitioners:

Mohd. Mansoor, Mohammad Danish

Counsel for the Respondents:

C.S.C., Ripu Daman Shahi

A. Service Law – UP Police Radio Subordinate Service Rules, 2015 – Part IV – Reg. 8 (c) – Post of Operators/ Head Operator (Mechanical) – Qualification – Advertisement require three years Diploma – Petitioners, having Bachelor Degree, claim themselves eligible as it is a higher qualification – Permissibility – Held, any recruitment to public posts has to be carried out strictly in accordance with the provisions contained in the Recruitment Rules – A Bachelor Degree are not eligible for seeking appointment in furtherance of the recruitment notification dated 06.01.2022. (Para 6, 19 and 35)

B. Service Law – Candidature – Cancellation – False information given during submission of the Application Form – Effect – Held, the petitioners applied for selection to the posts in question on their own by submitting false information regarding their eligibility qualification which renders their candidature liable to be canceled. (Para 25)

C. Service Law – Qualification – Issue regarding equivalence – Competence to decide it – Equivalence of qualification for the purpose of appointment to public posts can be decided by the employer alone. The employer in the present case is the St. Government – The Recruitment Board has no authority to take any decision regarding equivalence of qualifications. (Para 21 and 39)