

Gajendra Singh vs Reena Balmiki on 26 March, 2025

Author: Vikram Nath

Bench: Vikram Nath, Sanjay Karol

2025 INSC 413

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(ARISING FROM SLP(CrI.) No. 12249 OF 2023)

GAJENDRA SINGH

...APPELLANT

VERSUS

REENA BALMIKI & ANR.

...RESPONDENT

JUDGMENT

VIKRAM NATH, J.

1. Leave granted.

2. The instant appeal has been preferred by the appellant-

husband against the order dated 28.11.2022 passed by the High Court of Uttarakhand in Criminal Revision No. 396 of 2017 wherein the High Court dismissed the said revision petition.

3. Brief facts of the case are that the marriage between the appellant-husband and the respondent-wife was solemnised on 6th October, 2006 as per Hindu vedic rites and rituals. The parties lived together for a little over a year and as per the appellant, the respondent left the matrimonial house on 25th been living separately since December, 2007, albeit as per her, it is due to the dowry demand and torture meted out to her at the hands of the appellant and his family.

4. Thereafter, the respondent instituted proceedings under Section 125 of the Code of Criminal Procedure, 1973 seeking maintenance from the appellant. The Judicial Magistrate First Class, Karanprayag, Chamoli, vide order dated 07.05.2010, allowed the respondent's application and directed the appellant to pay a sum of Rs. 5,000/- (Rupees Five thousand only) per month to the respondent from the date of filing of the application.

5. Subsequently in November, 2015, the respondent preferred a complaint against the appellant and his family members under the Protection of Women from Domestic Violence Act, 2005 along with

an application under Section 23 of the DV Act seeking grant of interim maintenance. Accordingly, the Judicial Magistrate, Dehradun, disposed of the said application vide order dated 20.06.2016 and directed the appellant to pay maintenance of Rs. 15,000/- per month in addition to earlier awarded amount of Rs. 5,000/- in the proceedings under Section 125 of the Cr.P.C. Additionally, the appellant was also directed to provide accommodation to the respondent.

6. As such, both the parties filed respective appeals before the Court of Additional Sessions Judge, Dehradun against the order dated 20.06.2016. Both the appeals were rejected vide Cr.P.C.

DV Act order dated 25.09.2017, re-affirming the order passed by the Judicial Magistrate.

7. The appellant had earlier filed a suit for divorce which was contested by the respondent who was praying for a decree of restitution of conjugal rights. The Principal Judge, Family Court, Dehradun, vide order dated 22.01.2019, had rejected the appellant's petition seeking divorce and allowed the prayer of the respondent seeking restitution of conjugal rights. The appellant had preferred an appeal against the order dated 22.01.2019 before the High Court which is still pending adjudication.

8. Aggrieved by the order dated 25.09.2017, the appellant-

husband preferred the Criminal Revision before the High Court seeking an adjustment of Rs. 5,000/- which is being paid under Section 125 Cr.P.C. proceedings against the amount of Rs. 15,000/- which has been awarded under the DV Act and sought deduction of the previous amount from Rs. 15,000/- accordingly. However, the High Court refused to interfere in the assailed order and noted that the Courts below have taken into consideration the amount awarded under Section 125 of the Cr.P.C. and have accordingly decided the amount under the DV Act, and as such, no "adjustment" is required to be done. Accordingly, the Revision Petition was dismissed by the High Court.

9. Aggrieved, the appellant-husband is before us.

10. As there were longstanding arrears of maintenance, this Court, while issuing notice in the matter on 15.09.2023, had ensured that the appellant deposited a draft of Rs. 4,00,000/-

drawn in favour of the Registrar, Supreme Court of India towards 50% amount of the arrears of the maintenance awarded. This amount was invested by the Registry in an interest bearing fixed deposit account in a nationalized bank.

11. Subsequently, on 18.03.2024, we had directed the above-

mentioned amount of Rs. 4,00,000/- along with the accrued interest thereon to be paid to the respondent-wife. Further, the counsel for the appellant had stated that the pending monthly maintenance of the four months preceding the date of hearing would be paid directly to the respondent-wife on or before 31.03.2024.

12. As such, the issue relating to the balance amount of arrears of maintenance and for a one-time settlement was left for further consideration. The matter was also referred to the Supreme Court Mediation Centre for exploring the possibility of an amicable settlement. However, the effort for mediation bore no fruit.

13. As a result, the appellant pressed before us the application for directions filed under Article 142 of the Constitution of India read with the judgment of this Court in the case of *Shilpa Sailesh v. Varun Sreenivasan*³ seeking dissolution of marriage by grant of a decree of divorce. In the said application, the appellant has sought the limited relief of dissolving the marriage on ground of irretrievable breakdown of marriage and no other prayer has been extended by him. He 2023 SCC OnLine SC 544 further stated that he is ready and willing to provide the financial assistance of Rs. 25,00,000/- as permanent alimony.

14. We have heard the learned counsel for the parties and perused the material on record.

15. Firstly, with regard to the question of dissolution of marriage as prayed by the appellant, it is an admitted fact that the parties have been living separately since December, 2007, i.e. for more than last 17 years. Even back then, the parties had stayed together for a brief period of about 14 months and there is no issue out of the wedlock. The respondent had also filed a case of domestic violence against the appellant and his family members. The relations between the parties have evidently grown sour beyond the point of return and such a long period of separation has turned these differences irreconcilable. It is unfortunate that the parties have already spent a large number of years of their adult lives fighting marital battles in the courtrooms. The parties are currently placed in their early forties and still have a considerable natural life ahead of them to look forward to. It is evident that in the instant case, the marital discord has reached to a point of no remedy and there is an irretrievable breakdown of marriage. Therefore, no purpose shall be served by insisting for the parties to continue a marital relation which is already dead and we are, accordingly, inclined to allow the application preferred by the husband and grant divorce on the ground of irretrievable breakdown of marriage.

16. Next, we come to the question of maintenance and alimony to be awarded. At the outset, we state that there is a dispute between the parties regarding the amount of arrears of maintenance as well. The appellant-husband had claimed that the arrears of maintenance up till February, 2023 amounted to Rs. 8,00,000/- and that he had paid 50% of this amount in accordance with the orders of this Court. However, the respondent-wife has claimed that the arrears of maintenance amount to Rs. 10,01,152/-.

17. Further, the current financial status of the parties is one of the most relevant factors while deciding the question of permanent alimony. It is an admitted fact that the respondent is unemployed and has been as such throughout. The appellant is admittedly working as a Lecturer with a Government College in Uttarakhand. However, there is a dispute with regards to his earnings. The respondent claims that the appellant was drawing a salary of around Rs. 65,000/- per month in 2016 when the maintenance under the DV Act was awarded and was drawing a salary of Rs. 1,34,544/- per month as of November, 2023. As per the respondent, the appellant also has an

additional income of around Rs. 1,15,000/- per month from ancillary sources. On the other hand, the appellant has submitted that he was drawing a salary of Rs. 23,750/- per month in 2016 and his current net salary is Rs. 91,030 while his monthly expense is around Rs. 73,785/-. It has also been submitted by the appellant that he has no additional source of income. Further, the appellant has submitted that since under the DV Act proceedings, a residence order was granted in the favour of the respondent-wife, an accommodation has been provided by him to the respondent in the property of appellant's father while the appellant himself is living in a rented accommodation.

18. Considering the total facts and circumstances of the case especially the financial status of the parties, the fact that there is no child to maintain out of the wedlock and that the parties have been staying separately for such a long period, we deem it just and equitable to grant an amount of Rs. 40 lakhs (Rupees Forty lakhs only) as a one-time settlement amount of permanent alimony in favour of the respondent. The said amount shall cover all the pending and future monetary claims of the respondent against the appellant-husband. The appellant is, therefore, directed to pay the said amount as permanent alimony to the respondent within a period of four months in four equal monthly installments of Rs.10 lakhs each. The first instalment to fall due within one month from today.

19. Accordingly, the instant appeal is allowed and the impugned order dated 28.11.2022 is set aside. The marriage between the parties is dissolved and a decree of divorce is granted in their favour by this Court in exercise of power under Article 142 of the Constitution of India. Further, permanent alimony of Rs.40 lakhs (Rupees Forty lakhs only) is awarded to the respondent-wife to be paid by the appellant- husband as noted above.

20. Registry is directed to draw the decree only after proof of payment of Rs.40,00,000/- (Rupees Forty Lakhs Only) is filed.

21. No order as to costs.

22. Interlocutory Application(s), if any, shall stand disposed of.

..... J. [VIKRAM NATH] J. [PRASANNA B. VARALE] NEW
DELHI;

MARCH 26, 2025.