

**Akhilesh Vs. State of U.P.**

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**SooperKanoon Citation :** [sooperkanoon.com/463533](http://sooperkanoon.com/463533)

**Court :** Allahabad

**Decided On :** Aug-30-1994

**Reported in :** I(1995)DMC572

**Judge :** C.A. Rahim, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125

**Appeal No. :** Cr. Revision M-1288 of 1994

**Appellant :** Akhilesh

**Respondent :** State of U.P.

**Disposition :** Revision allowed

**Judgement :**

**C.A. Rahim, J.**

1. This revision has been preferred against the order dated 13.12.1993 passed by Judge Family Court. Berailly in Criminal Misc. Application No. 227 of 1993. By that order learned Judge granted interim maintenance of Rs. 600/- per month in favour of the respondent No. 2 learned Advocate has submitted that the Family Court succeeded his jurisdiction in awarding No. 600/- per month to the respondent No. 2 whereas Section 125, Cr.P.C. provides that maximum amount maintenance which can be awarded to a person is Rs. 500/-. He has submitted that the

revisionist is a daily wage earner and earning Rs. 20/- per day in a cloth merchant shop.

2. In a decision reported in 1993, Cr.L.J. 2605 (Smt. Mamta v. A.N. Vaidya) it was decided that grant of interim maintenance pending proceeding under Section 123, Cr.P.C. is an interlocutory order and there is no scope for revision. But considering the fact that there is no illegality in the order there is necessity to interfere. In the decision reported in 1992, Cr.L.J. 1923 (S. Iqbal Hussain v. Naseem Uddim), it was decided that the Court has power to award maintenance allowance to each of the persons not exceeding to Rs. 500/- but it cannot grant more than Rs. 500/- to such of the claimants, Section 125 Cr.P.C. is also clear on that point that the amount of maintenance should not exceed to Rs. 500/- as a whole. Considering this aspect the matter is taken up for disposal without issuing notice to the respondent No. 2 and in presence of the learned A.G.A. who has conceded.

3. Accordingly the revision is allowed in part, interim maintenance to the extent of Rs. 500/- is granted to the respondent No. 2. The order of the learned family Court is modified to that extent. But as regards other points raised by the learned Advocate the same may be agitated before the learned Family Court during Trial without any prejudice to either side.

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