

UPGK010110962024

**IN THE COURT OF SESSIONS JUDGE, GORAKHPUR**

PRESENT: RAJ KUMAR SINGH (H.J.S.)

**CRIMINAL APPEAL NO. 195/2024**

Lauhar Prasad Gupta s/o Late Ramvriksh Gupta, Age- about 52 years, R/O- village Silhata, Post- Vishunpura, P.S.- Jhangaha, District- Gorakhpur. ....**Appellant/opposite party No. 1**

**VERSUS**

1. Smt. Indu Devi wife of Lauhar Prasad Gupta, Age- about 48 years.
2. Manvendra Kumar Gupta, juvenile age about 15 years, son of Lauhar Prasad Gupta (Juvenile through natural Guardian mother Indu Devi wife of Lauhar Prasad Gupta).  
R/O- village Silhata, Post- Vishunpura, P.S.- Jhangaha, District- Gorakhpur.

.....**Opposite Party No.-1/complainant.**

3. Ramvriksh son of Late Kanhai Gupta, age about 63 years.
4. Chandra Dev Gupta son of Late Kanhai Gupta, age about 66 years.
5. Radhika Gupta wife of Late Chandra Dev Gupta, Age about 55 years.
6. Ramsigaar Gupta son of Ramvriksh Gupta, Age about 47 years, R/O- Village Silhata, Post- Vishunpura, P.S.- Jhangaha, District- Gorakhpur. ....**Opposite Party No.-2**

### JUDGMENT

1. This criminal appeal has been filed by the appellant against the order dated 19.10.2024 passed by learned Addl. Civil Judge (J.D.), Court No.-1, Gorakhpur in complaint case No.-15555/2022 Indu Devi & ors. Vs. Lauhar Prasad Gupta & ors under Section 29 Domestic violence Act.

2. The brief facts of the present case are as follows: “on behalf of the complainant an application dated 24.02.2023, along with an affidavit submitted that the complainant is the married wife of respondent No. 1. Without any justification, the respondent beat her and threw her out of the house. The complainant has no means of subsistence and is currently unable to support herself, pay her children's fees, household expenses, and pay the litigation costs. respondent No. 1 has a good agricultural land with an annual income of Rs. 1,20,000 (one lakh twenty thousand rupees). He owns a Bolero, which generates a monthly income of Rs. 30,000. He also lends money on interest, earning a total monthly income of Rs. 30,000. Consequently, his total monthly income is Rs. 70,000. That in the above circumstances, it is necessary in the interest of justice to order the complainant to receive interim maintenance from the opposite party in the amount of Rs. 30,000/- per month towards children's fees and household expenses and litigation expenses. The complainant has submitted an affidavit regarding her income in support of her statements.” Against this an application has been filed by the opposite party and submitted that Respondent No. 1 filed an objection to the said application dated March 17, 2023, stating that the application for interim maintenance against the complainants is contrary to law and fact and is liable to be dismissed. The complainants' application is false and fabricated, and constitutes a

false and unconstitutional lawsuit. The complainants' application is based on false statements. The application was filed solely to harass and harass Respondent No. 1, and therefore lacks substance, which is why it is liable to be dismissed. The claim that the money lost to the complainants is completely false and baseless and is liable to be dismissed. The complainants' statement in paragraph 1 of the interim maintenance application, that Respondent No. 1 is deliberately not appearing in court and is not answerable, is completely false and untrue. The complainants' statement in paragraphs 2 and 3 of the application, that Respondent No. 1 beat Complainant No. 1 and threw her out of the house, is completely false and untrue. We, Respondent No. 1, have never beaten Complainant No. 1 or our children. Instead, Complainant No. 1 insists on living in the city with her elder son. It should be noted that Complainant No. 1 and Respondent No. 1 elder son works at a Honda workshop, and Complainant No. 1 runs her own shop in the city, earning 22,000 rupees per month. The children's fees and household expenses are covered by the elder son and we, Respondent No. 1, from time to time. Consequently, Complainant No. 1's application is liable to be dismissed. In paragraph 4 of the application for interim maintenance, Complainant No. 1 states that Respondent No. 1 has a good agricultural holding, generating an annual income of 120,000 rupees, owns a Bolero car, generating a monthly income of 30,000 rupees, and also lends money on interest, generating a monthly income of 30,000 rupees. Thus, the total monthly income is Rs. 70,000. The complainant's statement is completely false and fabricated, and the suit is based on a false prohibition. We, the opposite party, have no agricultural land, nor do we have any income from it. We, the opposite party, have an old Bolero car that has been in poor condition for almost a year and is parked at our

doorstep. We, the opposite party, do not lend any money on interest, nor do we have any monthly income. The complainant's statement that the opposite party, the opposite party, has a monthly income of Rs. 70,000 is completely false and untrue. In paragraph 5 of the interim maintenance application, the complainant's statement that interim maintenance should be provided for the child's fees, household expenses, and litigation expenses is completely false and based on a false prohibition. We, the opposite party number 1, are always ready to keep the complainants with us and also provide for their maintenance and other expenses at home, but the complainant, under the influence and inducement of her parents, deliberately wants to live separately without any valid reason, otherwise there is no truth. The application for interim maintenance of the complainants deserves to be dismissed without cost from every point of view” .

3. The grounds for the appeal are that the order dated 19.10.2024 passed by the subordinate court is contrary to law and fact and is liable to be quashed. In passing the impugned order, the court exercised its discretion and jurisdiction illegally, which is why the impugned order is quashed. The subordinate court passed the impugned order dated 19.10.2024 by misplacing the petition dated 24.02.2023 filed by the complainant, which is also why the impugned order is quashed. Respondent No. 1, the appellant, filed a detailed objection and affidavit on 17.03.2023 to the petition filed by the complainant, but the subordinate court did not pay any attention to the objection filed by Respondent No. 1, which is why the impugned order dated 19.10.2024 is quashed. Complainant No. 1 lives with her elder son, who works at the Hyundai Workshop in Gorakhpur, and is supported by the son. Complainant No. 1 earns a

good income from her own shop, which the appellant detailed in his objection. However, the subordinate court, disbelieving the evidence of Respondent No. 1, granted the interim maintenance order solely based on the application filed by Complainant No. 1, which is completely false and worthy of dismissal. Despite the fact that the Complainant is capable of supporting herself, the Court passed the interim maintenance order based on a false statement filed by Complainant No. 1, which is worthy of dismissal. Respondent No. 1/Appellant does not work, has no income, and is willing to keep Complainant No. 1 with him at all times. Despite this, the subordinate court, disbelieving the Appellant, granted the application for interim maintenance filed by Complainant No. 1, which is worthy of dismissal. The complainant only requested interim maintenance in her petition dated 24.02.2023, but the subordinate court, by its order dated 19.10.2024, ordered the payment of Rs. 2,000 per month from the date of filing the complaint. Consequently, the order dated 19.10.2024 is liable to be set aside. The subordinate court, in passing the order dated 19.10.2024, did not properly consider the interim maintenance issue in the petition, but instead passed the order arbitrarily, which also makes the petition liable to be set aside. The complaint number was also incorrectly recorded by the subordinate court in its order dated 19.10.2024, which clearly demonstrates that the subordinate court passed the impugned order without a cursory review of the application.

4. The application bearing paper no. 14 Kha submitted by the respondent Indu Devi and stated that the appellant's contention that the order dated 19.10.2024 passed by the subordinate court is contrary to law and fact and deserves to be quashed is incorrect. The

truth is that the order dated 19.10.2024 passed by the subordinate court was passed on the merits after hearing both parties and is worthy of being sustained. The appellant's contention that the court exercised its discretion illegally in passing the order is incorrect. The truth is that the appellant filed this appeal with the intention of prolonging the case. The appellant's contention that the subordinate court illegally exercised its jurisdiction is incorrect. The appellant's statement that the subordinate court wrongly relied on the complainant's petition dated 24.02.2023, and passed the order dated 19.10.2024, making the order liable to be set aside, is incorrect. The appellant's statement that the appellant's objections were not addressed is incorrect. The appellant's statement that the complainant No. 1's son works at a Hyundai workshop is incorrect. Rather, the truth is that the opposite party's two sons and one daughter are studying, and the opposite party No. 1 earns a living by washing utensils in other people's homes. The appellant is not conducting any investigation, even though the appellant has substantial agricultural land and is self-employed, earning a monthly income of 50,000 rupees. The appellant's statement that the complainant is capable of supporting herself is incorrect. The appellant's statement that the appellant does not work is incorrect and that the appellant beats us, the opposite parties. The daughter of the opposite party, No. 1, is of marriageable age, but the appellant is unwilling to cooperate. The order passed by the subordinate court is worthy of being upheld.

5. Learned counsel for the appellant submitted that the opposite party has made false averments against the appellant. On the basis of wrong averments Rs. 2,000 /- interim maintenance has been awarded and the same directed to be paid for the allegation.

6. Heard the argument of the learned counsel for the appellant and learned counsel for the opposite parties and perused the record.

7. From the perusal of the memo of the appeal and the document submitted by the appellant it is clear that relationship of husband and wife is admitted by the appellant. Admittedly, the opposite party/complainant is legally wife of the appellant. Learned court below has been awarded Rs. 2,000/- as an interim maintenance. The Hon'ble Supreme Court in the matter of **Rajnish vs. Neha and another, decided on 04.11.2020** clearly mentioned that maintenance should be awarded from the date of filing of the application.

8. In view of the above, I do not find any impropriety or illegality in the order passed by learned Addl. Civil Judge (J.D.), Court No. 1, Gorakhpur. The order dated 19.10.2024 passed by learned Addl. Civil Judge (J.D.), Court No. 1, Gorakhpur is liable to be upheld and the appeal is preferred against the devoid of merit and is liable to be dismissed.

### **ORDER**

Criminal Appeal No. 195/2024 filed by the appellant is dismissed. The impugned order dated 19.10.2024 passed by the learned Addl. Civil Judge (J.D.), Court No. 1, Gorakhpur is upheld. Office is directed to consign the record as per the rule.

**Date: 11.03.2026**

**(Raj Kumar Singh)**  
Sessions Judge, Gorakhpur.  
Code- UP1889

The judgment was pronounced today in open Court, signed  
and dated by me.

**Date: 11.03.2026**

**(Raj Kumar Singh)**  
Sessions Judge, Gorakhpur.  
Code- UP1889