



2025:AHC:158781

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 646 of 2025

Smt. Arti And Another

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Ambleshwar Pandey, Anuj Srivastava,
Devaang Savla

Counsel for Opposite Party(s) : G.A.

Court No. - 84

HON'BLE SUBHASH CHANDRA SHARMA, J.

1. Heard Sri Ambleshwar Pandey, learned counsel for the revisionists and learned A.G.A. for the State. Notice to the opposite party no.2 has been served but none appeared on his behalf.

2. Present criminal revision has been filed by the revisionists against the impugned order dated 16.12.2024 passed by the Principal Judge, Family Court, Muzaffarnagar, registered as Case No. 476/11 of 2020, under Section 125 Cr. P.C. (Smt. Arti and another Versus Ravi), Police Station Khatauli, District Muzaffarnagar, whereby the application of the revisionists has been rejected by the learned trial court.

3. It is submitted by the learned counsel for the revisionists that in this case the revisionist no.1 is wife of the opposite party no.2 and revisionist no.2 is minor son. He further submitted that due to neglect on the part of the opposite party no.2, the revisionists are living apart from him and moved an application under Section 125 Cr. P.C. for maintenance, which was decided finally by the learned trial court vide order dated 16.12.2024, while rejecting the application on the ground that the name of the mother of the revisionist no.2 was Smt. Minakshi on the place of Smt. Arti. He further submitted that due to typographical error, mother's name Smt. Arti was typed as Smt. Minakshi. Learned trial court has rejected the application only on this ground without going into merit of the case, therefore, the order passed by the learned trial court cannot be said to be lawful and based on the material available on the record and it is liable to

be set aside.

4. Learned A.G.A. opposed the prayer as aforesaid, but could not dispute the fact that learned trial court has rejected the application only on the ground that the name of mother of the revisionist no.2 was mentioned as Smt. Minakshi on the place of Smt. Arti in the application under Section 125 Cr. P.C and it was typographical error.

5. Considering the facts and circumstances of the case, submissions made by learned counsel for the revisionists as well as learned A.G.A., perusal of record and the order dated 16.12.2024 passed by learned trial court, it appears that in an application under Section 125 Cr. P.C., the revisionist no.2-Vikit, aged about 5 years is represented through guardian and mother Smt. Minakshi wife of Ravi. The revisionist no.1 was Smt. Arti wife of Ravi. After notice, the opposite party no.2/husband appeared before the learned trial court and filed his objection, thereafter, he became absent. The revisionist no.1 Smt. Arti filed her affidavit in evidence as PW-I and sufficient opportunity was given to the opposite party no.2 for her cross examination, but he did not cross-examine the revisionist no.1, as a result his opportunity was closed on 02.02.2024. Later on, on 04.03.2024, his opportunity of evidence was also closed. After hearing the argument of learned counsel for the revisionists, the order in question was passed while dismissing the application, learned trial court mentioned the ground for dismissal that the name of guardian of the revisionist no.2 is Smt. Minakashi wife of Ravi whereas there is no any order of any competent court to show that Smt. Minakashi was guardian of the revisionist no.2, as a result, the application being erroneous was rejected. The order passed by the learned trial court is based only on the technicality committed in typing the name of guardian of revisionist no.2 i.e. Smt. Minakshi on the place of Smt. Arti. Learned trial court has not passed the order on merit and on the basis of material available on record, therefore, it cannot be said to be lawful and appropriate and is liable to be set aside.

6. Accordingly, this criminal revision is *allowed* and order dated 16.12.2024 is hereby *set aside* and the matter is remanded back to learned trial court to pass order afresh on the basis of material available on record after giving opportunity of hearing to both the parties. Revisionist is to

correct the name of guardian of the revisionist no.2 in the application under Section 125 Cr. P.C. with permission of the learned trial court.

(Subhash Chandra Sharma,J.)

September 9, 2025
T.S.