



2025:AHC:205032

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6348 of 2023

Smt. Gudiya

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Rachna Vyas
Counsel for Opposite Party(s)	:	Ashok Kumar Singh, G.A.

Court No. - 89

HON'BLE MADAN PAL SINGH, J.

1. This criminal revision of the year 2023 has been nominated to this Bench under the order of the Hon'ble The Chief Justice dated 13th August, 2025.
2. This case is being taken up out of turn on the mention made by the learned counsel for the revisionist.
3. Heard Mr. Rachna Vyas, learned counsel for the revisionist, Mr. Ashok Kumar Singh, learned counsel for opposite party no.2 and the learned A.G.A. for the State.
4. This criminal revision has been filed by the revisionist under Section 397/401 Cr.P.C. with a prayer to set aside the judgment and order dated 31st October, 2023 passed by the Principal Judge, Family Court, Chandauli in Maintenance Case No. 82 of 2019 (Smt. Gudiya Vs. Vikash Kumar), under Section 125 Cr.P.C. Police Station- Shahabganj, District-Chandauli, whereby the trial court has rejected the instant application of the revisionist under Section 125 Cr.P.C.
5. The contention of the learned counsel for the revisionist in support of the present criminal revision is that the trial court while passing the impugned judgment has not considered the allegations made by the revisionist before the trial court against the opposite party no.2 as well as the sufficient cause, which she has shown during the course

of trial, for her separate living with the opposite party no.2 even though the revisionist was sufficient cause for her separate living. Because of a compromise entered into between the parties outside the Court, which is of no sanctity in the eyes of law, the trial court has misinterpreted that the revisionist has taken divorce with opposite party no.2 and since then they are living separately. The trial court has also not considered the oral as well as documentary evidence adduced by the revisionist during the course of trial in correct perspective, whereas the trial court has considered the false evidence adduced by the opposite party no.2 before the trial court. The revisionist has specifically stated before the trial court that she has not solemnized any second marriage, but the trial court has wrongly accepted the evidence adduced by the opposite party no.2 in that regard.

6. On the above premise, it has been prayed by the learned counsel for the revisionist by means of present criminal revision that since the trial court while passing the impugned judgment has not considered the aforesaid aspect of the matter, therefore, the same is liable to be set aside.

7. On the other-hand, the learned counsel for opposite party no. 2 and the learned A.G.A. for the State have opposed the submissions made by the learned counsel for the revisionist by submitting that the trial court has not committed any illegality or infirmity in passing the impugned judgment rejecting the instant application of the revisionist under Section 125 Cr.P.C. so as to warrant any interference by this Court in exercise of revisional jurisdiction.

8. On the above premise, learned counsel for opposite party no.2 submits that since the trial court while passing the impugned judgment has not committed any error in the eyes of law, therefore, present criminal revision is liable to be dismissed.

9. This Court has considered the facts and circumstances of the case, submissions made by learned counsel for the parties as well as perused the record including the impugned judgment, this Court finds that it is an admitted case that the revisionist is legally wedded wife of the opposite party no.2 and the said issue has also been decided by the trial court under the impugned judgment in favour of the

revisionist.

10. The instant application of the revisionist has been rejected by the trial court under the impugned order solely on the ground of separate living of the revisionist from her husband i.e. opposite party no.2 without any sufficient reason. The trial court has also opined that prima facie the revisionist is living in adultery with another person. The trial court while deciding the aforesaid issues has recorded following findings of facts:

11. Before the trial court, it has been stated on behalf of the opposite party no.2 that the relationship between the revisionist and the opposite party no.2 as husband and wife did not continue so long, as a divorce agreement/settlement was executed in the Panchayat outside the court with the consent of both the parties and their family members and from that date, the relationship of husband and wife i.e. the revisionist and the opposite party no.2 ceased to exist. It has also been stated on behalf of opposite party no.2 before the trial court that after two years from the date of the execution of the said settlement, the revisionist remarried one Navrang Paswan and in the year 2019 when the instant application under Section 125 Cr.P.C. was filed, the relationship of husband and wife did not actually exist between the revisionist and the opposite party no.2. On the other hand, it has been stated on behalf of the revisionist before the trial court that the alleged divorce agreement/settlement has no legal validity and the aforesaid documents produced by the opposite party no. 2 are not liable to be admissible. On the above stands of both the parties, the trial court has opined that the lack of legal literacy among the vast majority of India's population is undeniable. It is often observed in society that parties resolve their disputes through mutual consent, without going to court, whether or not the dispute has legal validity.

12. The trial court has further recorded that in the cross-examination, the revisionist has clearly admitted that she happily left her matrimonial house and returned to her parental house and that she remained there. She never returned to her in-laws' home. She also admitted that her in-laws were very poor when she married. Her husband did not even have enough money to study. She also admitted that her parents' financial situation was quite strong at the time of her marriage. She grew up in affluence and her parents raised

her very well. She further admitted that her husband came from a poor family and she came from a wealthy family, and this was an incompatible relationship. The revisionist has also admitted that she left once after marriage and continued to live at her parental house.

13. From the entire evidence adduced during the course of trial, the trial court has opined that the allegation made by the revisionist against opposite party no.2 that just after joining the post of Constable in U.P. Police, the opposite party no.2 started beating and abusing the revisionist does not appear to be credible.

14. The trial court then recorded that the Adhar Card of the revisionist was made in 2016 in which the name of husband has been shown as "Vikash Kumar" i.e. opposite party no.2 but later in 2017, her said Aadhaar card was gotten amended and at this time, the name of her husband i.e. Vikash Kumar has been replaced by her father's name i.e. Mahendra Paswan. From the entire evidence, the trial court has not found any justification coming forward on behalf of the revisionist before the trial court for deleting the name of the opposite party no.2 i.e. her husband from the Adhar Card by adding the name of her father.

15. The trial court has then recorded that at the time of filing of instant application under Section 125 Cr.P.C. in the year 2019, why did she enclose the copy of her deleted Adhar Card shown the name of her husband i.e. opposite party no.2, in place of amended Adhar Card showing the name of her father, from which it is clear that the revisionist has filed the instant application under Section 125 Cr.P.C. by concealing the facts and with the cancelled Aadhaar card, which is clearly an attempt to mislead the Court.

16. The trial court has also recorded that in the voter list produced by the opposite party no.2 during the course of trial, the name of the husband of the revisionist has been shown as "Navrang Paswan", and the voter identity card was issued on 21st January, 2019, whereas the said fact was denied by the revisionist during the course of trial that the same was not of the revisionist. However, the revisionist has not taken any steps for cancellation of the said voter list or voter identity card by filing a petition/suit, as may be

permissible under law nor she has made an application under Section 340 Cr.P.C. that the same produced by the opposite party no.2 before the trial court is forged or fictitious.

17. So far as the testimony of Vimla Devi produced by the revisionist before the trial court as P.W.-2 is concerned, the trial court has specifically found that she is stock witness.

18. The trial court has also recorded that no explanation or reason has been offered on the part of the revisionist as to why the amended Aadhaar card was not submitted with the instant application under Section 125 Cr.P.C. and as to why no application was filed to have her name deleted or amended from the alleged voter list produced by the opposite party no.2 during the course of trial.

19. With regard to the ration card and the family register of the opposite party no.2 produced by the revisionist before the trial court for establishing that she is member of her in-laws, the trial court has opined that since the latest copy of the ration card has not been produced, therefore, she cannot be considered a member of the family solely on that basis.

20. The trial court also considered the photo copy of the certificate issued by the Village Pradhan of Bharari Kala, produced by the opposite party no.2 before the trial court, wherein it has been mentioned that Gudiya, daughter of Mahendra Paswan, was married to Naurang Paswan, son of Moti Paswan, on 15th May, 2018.

21. The trial court has again recorded that from the entire evidence, even if it is assumed that the divorce agreement/settlement relied upon by the opposite party no.2 is false, it is clear that the revisionist is living separately from opposite party no.2 without any sufficient reason and it is also prima facie clear that she is living with another man without being legally married.

22. Relying upon the cross-examination of the revisionist wherein she has stated that she came from a well-to-do family and that the opposite party no.2 was from a poor family, and that the marriage was incompatible, the trial court has opined that the revisionist was

living separately from the opposite party no.2 upon her own free will.

23. On the basis of the aforesaid findings of facts, the trial court has passed the impugned judgment rejecting the claim of the revisionist for maintenance under Section 125 Cr.P.C.

24. On perusal of the aforesaid findings returned by the trial court while passing the impugned judgment, this Court finds that the trial court has recorded categorical finding of facts, which are based on true and correct appreciation of evidence adduced before it, which cannot be said to be perverse or illegal.

25. Since this Court sits in a revisional jurisdiction, it cannot embark upon a re-appreciation of evidence as suggested by the learned counsel for the revisionist. The evidence led before the trial court has been dealt with by the trial court while passing the impugned judgment. Therefore, this Court is of the view that this Court cannot substitute its own finding while exercising its powers under Section 397/401 Cr.P.C.

26. Consequently, the present criminal revision lacks merit and is, accordingly, **dismissed**.

27. There shall be no order as to costs.

November 17, 2025
Sushil/-

(Madan Pal Singh,J.)