



2026:AHC:48428

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1298 of 2025

Manoj Kumar Yadav

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Shiv Bahadur Yadav

Counsel for Opposite Party(s) : Ashish Kumar, G.A., Himanshu Gupta,
Om Prakash Singh, Rakesh Kumar
Pandey

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the revisionist, learned counsel for opposite party no.2 and the learned A.G.A. for the State.

2. This criminal revision has been filed by the revisionist under Section 397/401 Cr.P.C. with a prayer to set aside/quash the judgment and order dated 18th December, 2024 passed by the Principal Judge, Family Court, Lalitpur, in Case No. 188 of 2023 (Manoj Kumar Yadav Vs. Smt. Sita) under Section 125 (4) (5) Cr.P.C., whereby the trial court has rejected the said application of the revisionist.

3. In the instant application under Section 125 (4) (5) Cr.P.C., it is the case of the revisionist that the parties were married on 05.02.2005. The opposite party no.2 is living separately from the revisionist without any reasonable cause and depriving the revisionist of marital bliss. The opposite party no.2 practices law in Lalitpur, earning an income of Rs. 30,000/- per month. Consequently, the orders passed against the revisionist on 31.08.2010 and 17.12.2016 are liable to be quashed. Case No. 625/2018, (Mrs. Sita vs. Manoj Kumar), under Section 127 of the Cr.P.C., is pending in the court. In that case, the revisionist filed a petition for reconciliation of marital relations. Upon the court's direction, the revisionist's father and brother appeared in court to take the opposite party no.2 away, but the opposite party no.2 refused to accompany the revisionist in court. Further it is the case of the revisionist that the revisionist has been trying to get the opposite party no.2 to live with him for 15 years, but the opposite party no.2 is not agreeing. The opposite party no.2 is a free-spirited woman, and after marriage, she visited the revisionist's home three times. However, opposite party no.2 did not fulfil her marital relations since June 2005. The opposite party no.2 has herself admitted in court that there has

been no physical relationship between the husband and wife (revisionist and opposite party no.2 herein) since 2005. Despite being the revisionist's wife, he has been deprived of physical pleasures, which falls under the category of cruelty. On the basis of aforesaid facts, it has been prayed that the maintenance orders dated 31st August, 2010 and dated 17th December, 2016 are liable to be quashed.

4. Learned counsel for the revisionist submits that it has specifically been pleaded before the trial court through oral as well as documentary evidence that since the opposite party no.2 is living separately from her husband i.e. revisionist since 2005 without any sufficient cause and she has not fulfilled her marital duties, therefore, she is not entitled to get any maintenance allowance from the revisionist as per Section 125 (4) (5) Cr.P.C. However, the trial court has not considered the case of the revisionist while passing the impugned judgment, which is unsustainable in the eyes of law as Section 125 (4) (5) Cr.P.C. fully applies in the facts of the present case.

5. On the above premise, learned counsel for the revisionist submits that since the trial court has not considered the case of the revisionist properly and has passed the impugned judgment in a mechanical manner, therefore, the same is liable to be quashed.

6. On the other-hand, the learned counsel for the opposite party no.2 and the learned A.G.A. have opposed the present criminal revision by submitting that there is no illegality or infirmity in the impugned judgment passed by the trial court so as to warrant any interference by this Court in exercise of revisional jurisdiction.

7. Besides the above, learned A.G.A. submits that the trial court i.e Additional District and Sessions Judge/Special Judge (Dacoity Affected Area, Act), Lalitpur while passing the judgment and order dated 31st August, 2010 in Criminal Revision No. 02 of 2010 (Smt. Sita Vs. State of U.P. & Another) has recorded categorical finding that the opposite party no.2 has sufficient cause to live separately from her husband i.e. revisionist. By the judgment and order dated 31st August, 2010, the revisional court had awarded Rs. 3,000/- per month in favour of opposite party no.2 towards maintenance allowance. Thereafter the opposite party no.2 has filed an application under Section 127 Cr.P.C. being Case No. 181 of 2015 for enhancement of the aforesaid monthly maintenance allowance which was allowed vide judgment and order dated 17th December, 2016 and the trial court has enhanced the monthly maintenance allowance from Rs. 3, 000/- to Rs. 8,000/- per month in favour of opposite party no.2. In Case No. 181 of 2015 under Section 127 Cr.P.C., the revisionist has not challenged the issue of separate living of opposite party

no.2. After more than 13 years from the passing of the judgment and order dated 31st August, 2010 and more than 6 years from the date of passing of the judgment and order dated 17th December, 2016, the revisionist has filed the instant application under Section 125 (4) (5) Cr.P.C. When as a matter of fact such ground has already been decided in favour of opposite party no.2 vide judgment and order dated 31st August, 2010.

8. On the above premise, learned A.G.A. submits that since the trial court has not committed any error in passing the impugned judgment, the present criminal revision is liable to be dismissed.

9. I have considered the facts and circumstances of the case and the submissions made by the learned counsel for the parties and perused the entire material available on records including the impugned judgment.

10. For deciding the present criminal revision, it is necessary for this Court to come to the finding recorded by the trial court while deciding issue no.1 under the impugned judgment.

11. The trial court has recorded that the revisionist filed application no. 3-A under Section 125 (4) (5) Cr.P.C. and prayed that the orders dated 31.08.2010 and 17.12.2016 passed in favour of the opposite party no.2 be quashed. While presenting the said application, the revisionist has mainly taken the ground that while passing the maintenance order dated 17.12.2016, the Family Court did not provide an opportunity of being heard to the revisionist and while deciding the matter unilaterally, an order of maintenance of Rs. 8000/- per month was passed instead of Rs. 3000/- per month. It was also argued on behalf of the revisionist that the opposite party no.2 herself does not wish to live with the revisionist and has refused to live with the revisionist without any reasonable cause. Therefore, the opposite party no.2 is not entitled to any maintenance. It was then argued that the opposite party no.2 had filed a complaint Case No. 1880/2007 (Smt. Sita Devi vs. Manoj & Others.), under Section 498-A I.P.C. and Section 3/4 D.P. Act against the revisionist and his family members on the grounds of cruelty and dowry harassment. After hearing the case, the trial court acquitted the revisionist and his family members on 8th December, 2022. Therefore, the maintenance orders dated August 31, 2010 and December 17, 2016 are liable to be set aside.

12. The trial court has further recorded that the opposite party no.2 had filed a petition against the revisionist under Section 125 Cr.P.C. which was dismissed by the court on 16th December 2009, against which the she filed a criminal revision. On 31st August, 2010, the revisional court, set aside the dismissal order dated 16 December 2009 and passed an order for maintenance of Rs.

3000 per month, and the revisionist paid the maintenance. The revisionist has not filed any appeal against the order dated 31 August 2010 in any competent court of law. Therefore, any proceedings against the order dated 31 August 2010 are barred by law of estoppel.

13. From the perusal of the above evidence adduced before the trial court, the trial court has found that the issue of separate living of opposite party no.2 with her husband i.e. revisionist has already been settled in favour of opposite party no.2 long back. So far as the issue of living of opposite party no.2 in adultery is concerned, the trial court has opined that in the present case, the revisionist has not levelled any allegation against the opposite party no.2 that she is living in adultery.

14. After examining the documents submitted by the revisionist, the trial court has found that none of documents indicate that the opposite party no.2 is living separately from the revisionist without any reasonable cause. These documents clearly indicate that there is considerable litigation between the parties. Therefore, if the opposite party no.2 is living separately from the revisionist, she must be living separately from the revisionist for sufficient cause.

15. On the basis of such finding, the trial court has come to the conclusion that revisionist has completely failed to prove the facts raised by him in his application for quashing the maintenance orders dated 31.08.2010 and 17.12.2016.

16. 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 on the above issue. 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.

17. Consequently, this Court finds that there is no illegality or infirmity in the impugned order passed by the trial court partly rejecting the application of the revisionist under Section 125 (4) (5) Cr.P.C. so as to warrant any interference by this Court in exercise of revisional jurisdiction.

18. The present criminal revision is devoid of merit and is, accordingly, **dismissed.**

19. There shall be no order as to costs.

March 10, 2026
Sushil/-

(Madan Pal Singh,J.)