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2026:AHC:138756

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 7617 of 2025

Santosh Kumar

.....Revisionist(s)

Versus

State of U.P. and 2 others

.....Opposite Party(s)

Counsel for Revisionist(s)	: Ajay Kumar Pandey, Jaideep Tripathi
Counsel for Opposite Party(s)	: Abhilasha Singh, Ashutosh Yadav, G.A.

Court No. - 18

HON'BLE ACHAL SACHDEV, J.

1. Heard Sri Ajay Kumar Pandey, learned counsel for the revisionist, learned A.G.A. for the State and Sri Ashutosh Yadav, learned counsel for the opposite party no. 2.
2. The present revision has been preferred by the revisionist against the order dated 14.08.2025 passed by Principal Judge, Family Court, Chitrakoot in Case No. 30 of 2019 (Smt. Ranno and another Vs. Santosh) u/s 125 Cr.P.C., Police Station- Karvi, District- Chitrakoot, by which the trial court has awarded a sum of Rs.2,000/- to the applicant no.1 and Rs.1,000/- to the applicant no. 2 (till she attains majority) as maintenance from the date of filing of application.
3. The facts of the case in brief are that the second marriage of applicant no. 1 was solemnized through a compromise notarized on 10.06.2006 with opposite party, Santosh, in presence of witnesses as per Hindu rituals. Following the marriage compromise, applicant no. 1 and opposite party, Santosh began living as husband and wife. A few days later, applicant no. 1 had a daughter, namely, Shivani with opposite

party, Santosh, approximately 8 years old, who lives with applicant no. 1. Applicant no. 1 has a son, Deepak, from her first marriage, who is an adult and earns his living through hard labour. Applicant no. 1 has no concern with Deepak. After marriage of applicant no. 1 to opposite party, Santosh, they lived a happy married life for some time. However, after a few years of birth of applicant no. 2, Shivani, the opposite party's behavior toward applicant no. 1 changed and he often fought with applicant no. 1 over trivial matters. For the past two years, the opposite party, Santosh, has been quarrelling with applicant no. 1 and beating her and her daughter, and has even stopped providing them with food. Applicant no. 1 complained about this to higher authorities and the police station. Following this, the police arrested the opposite party. He was later released after a settlement. The opposite party owns agricultural land and a house in Manoharganj, Sitapur, in his father's name. He is a mason for a building clerk, earning approximately Rs.18,000/- to Rs.20,000/- per month. The opposite party has sufficient income and is capable of supporting applicant no. 1 and her daughter. The daughter of applicant no. 1, Shivani, is approximately 8 years old and of school going age. She desperately needs Rs.4,000/- per month for her education, food, and medicine, and Rs.3,000/- per month for applicant no. 1 maintenance, totaling Rs. 7,000/- per month. Applicant no. 1 is physically weak and frequently ill. She has no source of income, and is, therefore, unable to support herself or her daughter. The opposite party resides in his native village, Ban Tala Manoharganj Majra, Sitapur, Police Station- Karvi, and has no interest in applicant no. 1 or her daughter. Applicant no. 1 is the opposite party's legally wedded wife, and Ms. Shivani is his minor daughter. Therefore, the applicant and her daughter are legally entitled to receive maintenance from the opposite party. On the above facts, a request has been made to provide maintenance of Rs.3,000/- per month to applicant no. 1 and Rs.4,000/- per month to applicant no. 2, totalling Rs.7,000/- per month from the opposite party.

4. Learned counsel for the revisionist has submitted that the opposite party no.2 was married to one Sharda Prasad, and out of their marital relationship, she had two children, and she subsequently started living with the revisionist, without divorcing her first husband and in her statement before the trial court, she has stated that she had been married to the revisionist as per Hindu rites and ceremonies, and has further stated that her first husband was alive. He next submits that the opposite party no. 2 started living with the revisionist and during the course of her stay with him, her first husband had died.

5. Learned counsel for the opposite party no.2 submits that opposite party no.2 had married the revisionist on 10.06.2006 as per Hindu rites and out of their marital relationship, she gave birth to her daughter, Shivani, who is opposite party no.3. Due to their marital discord, Santosh Kumar stopped fulfilling the basic needs of opposite party nos.2 and 3. He next submits that the revisionist earns Rs.20,000/- per month which is sufficient to maintain her and her daughter, but he has neglected to do so.

6. Heard the rival submissions made by learned counsel for the parties and perused the record.

7. The trial court has, on the basis of rival contentions made by the applicant and the opposite party, framed the following four issues :-

- (i) Whether the applicant no. 1 qualifies the term “wife” in terms of Section 125 and is wife of opposite party ?
- (ii) Whether the applicant no. 2 is daughter of opposite party ?
- (iii) Whether the applicants are entitled to receive any maintenance from the opposite party ?
- (iv) Any other relief ?

8. Perusal of judgment and record of the case shows that the applicant no. 1 in her cross-examination has admitted the fact that she was married to one Sharda about 15 years earlier and had two children from Sharda, and she did not obtain any divorce from Sharda, and while

he was alive, she started residing with Santosh, and she was not married to Santosh as per Hindu rites and rituals. When she got married to Santosh, her earlier husband was alive, who resided at her house. While the applicant no. 1 was residing with Santosh, her husband died. The trial court has also given finding to the effect that the applicant no. 1 was unable to prove that she was married to opposite party as per Hindu rites and rituals, and it also observed that her husband Sharda was alive when she started residing with Santosh.

9. For the sake of convenience, Section 125(4) Cr.P.C. is being reproduced hereinbelow :

125 (4) :- No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

10. From the perusal of evidence on record, it is clear that the applicant no. 1 does not qualify the term “legally wedded wife” of opposite party, and the trial court has erred in passing the maintenance order in favor of applicant no. 1. While deciding the issue no. (ii) as to whether applicant no. 2 is daughter of opposite party, the trial court has placed reliance on the DNA report, which is paper 54 Kha on the record, wherein it has been held that applicant no. 1 and opposite party are biological parents of applicant no. 2, from which it is clear that opposite party is father of applicant no. 2 and is responsible for providing maintenance to her and the trial court has rightly concluded while deciding issue no. (ii) that applicant no. 2 is daughter of opposite party as it is the moral duty of father to maintain his children who are unable to maintain themselves, whether the children are legitimate or illegitimate, whether married or not, as provided u/s 125(1)(b) Cr.P.C.

11. In view of the above, the finding of trial court in regard to award of maintenance in favour of **applicant no. 2** needs no interference as it is very well reasoned and justified.

12. Insofar as **applicant no. 1** is concerned, in the light of the aforesaid discussion, the impugned judgment and order dated 14.08.2025 passed by Principal Judge, Family Court, Chitrakoot in Case No. 30 of 2019 (Smt. Ranno and another Vs. Santosh) u/s 125 Cr.P.C., Police Station- Karvi, District- Chitrakoot, needs to be interfered with and is hereby set aside.

13. Accordingly, the criminal revision is **partly allowed**.

(Achal Sachdev,J.)

July 10, 2026

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