



2026:AHC:142142

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4112 of 2025

Smt Kusum

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Abhishe Pandey, Praveen Singh
Counsel for Opposite Party(s)	:	Chakra Dhaar Mishra, G.A.

Court No. - 87

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Heard Mr. Praveen Singh, learned counsel appearing on behalf of learned counsel for revisionist, learned AGA representing opposite party no. 1, Mr. Anand Kumar Tiwari, Advocate holding brief of Mr. Chakra Dhaar Mishra, learned counsel for opposite party no. 2 and perused the record.

2. The revisionist Smt. Kusum has approached this Court by means of present criminal revision assailing the validity of impugned judgment and order dated 15.05.2025 passed by Additional Principal Judge, Family Court No. 2, Muzaffarnagar (hereinafter referred to as trial court) passed in Case No. 1405 of 2022 (CNR No. UPMZ020034652022) (Rukhsar Khan Vs. Tanveer Khan) under section 125 Cr.P.C., Police Station Jamaniya, District Ghazipur wherein the trial court allowing the application u/s 125 Cr.P.C. filed by the revisionist directed opposite party no. 2 to pay Rs. 8,000/- per month maintenance to the revisionist.

3. Feeling aggrieved from that order the present criminal revision has been filed on the grounds that the impugned order is wholly illegal unjustified, against the provisions of law, based on presumptions, the trial court committed manifest error by passing the impugned order, it is based on surmises and conjunctures, the trial court passed the impugned order arbitrarily, illegally without going into the merit of the case. Accordingly, the impugned order is liable to be set aside by this Court in exercise of its revisional jurisdiction.

4. After some length of argument learned counsel for revisionist confined his argument only to the extent that the trial court held fastening opposite party no. 3 to pay the amount of maintenance while no liability upon opposite party no. 2 has been fastened. Elaborating his submissions learned counsel for revisionist submitted that the opposite party no. 3 is the real son of the revisionist while opposite party no. 2 is her step son. Only on the ground that Opposite Party No. 3 is her real son, whereas the trial court discharged the opposite party no. 2 from his liability due to being step son of the revisionist. It is, therefore, contended that the impugned order is liable to be modified by fastening the same liability upon Opposite Party No. 2 as has been imposed upon Opposite Party No. 3.

5. Per contra learned AGA and learned counsel appearing on behalf of opposite party no. 2 vehemently opposed the criminal revision and submitted that in presence of real son having sufficient means to maintain his mother, her step son cannot be held liable for the same. In view of above the present criminal revision is not only devoid of merit but it is filed with malafide intention, therefore, it is liable to be dismissed by this Court.

6. Section 125 Cr.P.C. provides as under:-

"125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain -

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct :

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.[Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this subsection, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct.Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person. Explanation. - For the purposes of this Chapter, -

(a)"minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority,

(b)"wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not re-married.

(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, Substituted by Act 50 of 2001, Section 2 for "allowance" (w.e.f. 24-9-2001) remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing. Explanation. - If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(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, Substituted by Act 50 of 2001, Section 2 for "allowance" (w.e.f. 24-9-2001). 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.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order."

7. While considering the maintenance to parents the court has to see the relation of parent and children between the parties and further whether the parties seeking maintenance is unable to maintain his/her child parent as the case may be. The Court must also determine whether the person from whom maintenance is claimed has sufficient means to provide such maintenance. From the submissions advanced by both sides, it is evident that the revisionist is the real mother of opposite party No. 3 and the stepmother of opposite party No. 2. It is possible that, at the time of filing the application under Section 125 Cr.P.C., the revisionist was unable to maintain herself but after the order of trial court the amount for her maintenance has been earned by court's order, opposite party no. 3 has not challenged such order meaning thereby opposite party no. 3 is accepted the order of trial court in aforesaid circumstance now the revisionist is capable to maintain herself getting the maintenance amount from her real son so now she is lost her status of incapability to maintain herself.

8. Even a person having insufficient means to maintain himself may have right to file application for maintenance against relevant persons but in furtherance of such proceeding of maintenance if the Court allows the same fastening a person liable to maintain the person claiming maintenance then by virtue of order of Court. The inability of person claiming maintenance to maintain himself/herself become to an end after order of Court to pay maintenance the person in whose favour the maintenance order is passed

cannot claim another maintenance to another person. Similarly it is right of the claimant that if there two or more persons are under obligation to maintain the applicant from whom and in which ratio the maintenance amount be paid. It is Court to decide that from whom and to what extent maintenance be made payable.

9. In view of above we find that this criminal revision has been filed only with intention to harass the opposite party no. 2 without any substantive legal basis. Accordingly, the present criminal revision is devoid of merit and is liable to be dismissed. The criminal revision is hereby **dismissed**.

(Lakshmi Kant Shukla,J.)

July 14, 2026

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