



2026:AHC:152727

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3086 of 2025

Manju Sonkar

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Ravi Prakash, Satya Prakash
Vishwakarma, Pradeep Kumar

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

A.F.R.

Court No. - 87

HON'BLE LAKSHMI KANT SHUKLA, J.

1. This matter was mentioned in the morning for being taken up.
2. It is, accordingly, taken up.
3. Heard Mr. Pradeep Kumar, learned counsel for the revisionist, learned A.G.A. representing the State and perused the material available on record.
4. As per office report, notice upon opposite party no. 2 has been duly served. However, neither he nor anyone on his behalf is present to oppose the present Criminal Revision.
5. Revisionist Manju Sonkar has approached this Court by means of present Criminal Revision challenging the impugned order dated 15.07.2022 passed by the Principal Judge, Family Court, Kaushambi (hereinafter referred to as "the Trial Court") in Case No. 119 of 2017, Manju Sonkar and another v. Om Prakash, under Section 125 Cr.P.C., Police Station Kokhraj, District Kaushambi, whereby the the Trial Court rejected the prayer for maintenance under Section 125 Cr.P.C. made by the revisionist and accepted the prayer for maintenance to the biological minor child of revisionist and opposite party no. 2.
6. Feeling aggrieved from the aforesaid order, the present revision has been filed on the ground that the impugned order is arbitrary, illegal and suffers from material irregularity. It has been passed without application

of judicial mind committing manifest error in rejecting the maintenance for the revisionist. It is thus contended that the impugned order is liable to be modified by this Court invoking its revisional jurisdiction.

7. It is submitted by the learned counsel for the revisionist that the Trial Court allowed the claim for maintenance of her minor son but at the same time rejected the claim of the revisionist saying that she is not legally wedded wife of opposite party no. 2. The finding of the Trial Court that the revisionist is not legally wedded wife of opposite party no. 2, is based upon the facts that opposite party no. 2 had already been married with another woman and his marriage is in existence. It is further observed that as per Hindu Law, in the event of existence of a marriage, second marriage is not permitted. Learned counsel for the revisionist further submitted that the revisionist's claim is that she is legally wedded wife of opposite party no. 2 and only on the ground that opposite party no. 2 has another wife from his earlier marriage which is in existence, the revisionist cannot be held dis-entitled from getting maintenance while the revisionist had no knowledge about the existence of previous marriage of opposite party no. 2. In view of above, it is thus contended that the findings of the Trial Court, to the extent it rejects the maintenance to opposite party no. 2, is not sustainable in the eyes of law. It is liable to be set aside by this Court.

8. To buttress his submissions, learned counsel for the revisionist has relied upon the judgment of High Court of Orissa in **Anupama Pradhan v. Sultan Pradhan, 1991 CrLJ 3216** and the judgment of Supreme Court in **Chanmuniya v. Virendra Kumar Singh Kushwaha and another, 2011 (1) SCC 141**. In paragraph 9 of **Anupama Pradhan (supra)**, it has been observed as under:

" 9. So far as the second point is concerned, it is seen that the assertion of the petitioner that she is the legally married wife of the o. p. has been corroborated not only by her father (p.w. 2) but also by her caste men (p. ws. 3 and 4). That apart, parties have admitted, as already stated above, that they lived as wife and husband for a long period of 12 years and that the petitioner has given birth to three children through the o. p. during that period. As against all these evidence, the denial evidence of the o. p. does not find corroboration. In the face of all these evidence, the learned Magistrate has recorded a finding that the petitioner is not the legally married wife of the o. p. merely because there was no evidence from the side of

the petitioner as to the procedure of the marriage prevalent in her caste and also for non-examination of the priest and barber. It has been laid down in a number of decisions by this Court that proceeding under section 125 of the Code is of summary nature and that the intricacies of the law are not required to be gone into and that where the man and woman lived together as husband and wife and treated as such by the community and the man treated the woman as his wife, marriage between them has to be inferred for the limited purpose of section 125 of the Code. To cite one of them is Saudamini Dei v. Bhagirathi Raj, 53(1982) C.L.T. 93. In view of such decision, I hold, on the basis of aforesaid evidence, that the petitioner is the legally married wife of the o. p. and the finding of the learned Magistrate being perverse is set aside."

9. Learned counsel for the revisionist has placed reliance upon paragraph 45 **Chanmuniya** (*supra*) where it has been held as under:

"We, therefore, request the Hon'ble Chief Justice to refer the following, amongst other, questions to be decided by a larger Bench. According to us, the questions are:

- 1. Whether the living together of a man and woman as husband and wife for a considerable period of time would raise the presumption of a valid marriage between them and whether such a presumption would entitle the woman to maintenance under Section 125 CrPC?*
- 2. Whether strict proof of marriage is essential for a claim of maintenance under Section 125 CrPC having regard to the provisions of the Domestic Violence Act, 2005?*
- 3. Whether a marriage performed according to the customary rites and ceremonies, without strictly fulfilling the requisites of Section 7(1) of the Hindu Marriage Act, 1955, or any other personal law would entitle the woman to maintenance under Section 125 CrPC?"*

10. Per contra, learned counsel for opposite party no. 2 and the learned A.G.A. representing the State have vehemently opposed the revision and supported the impugned judgement. It is submitted that although it is the assertion of the revisionist that she is legally wedded wife of opposite party no. 2 but in existence of earlier marriage of opposite party no. 2, second marriage is not a valid marriage under the law. As regards the solemnization of marriage as per the required rituals and without knowledge of earlier marriage is concerned, in paragraph 17 of the impugned judgment it has been observed that the revisionist could not produce any credible evidence in this regard. It is thus contended that in

absence of any evidence regarding due solemnization of marriage between the revisionist and opposite party no. 2, the revisionist cannot be said to be a legally wedded wife of opposite party no. 2, even in absence of subsistence of any earlier marriage. In view of above, it is contended that the revisionist is not entitled to get maintenance from opposite party no. 2. The present criminal revision is devoid of merit and is liable to be dismissed by this Court.

11. We have heard the learned counsel for parties and perused the material available on record. A perusal of the judgment in **Anupama Pradhan** (*supra*) reveals that the facts of the present case are different from that case. In that case parties would belong to the Scheduled Tribes Community which was exempted under Section 2(2) of the Hindu Marriage Act and bigamy was permissible. However, in the present case none of the parties belongs to scheduled tribes community. Therefore, the judgment in **Anupama Pradhan** (*supra*), relied by the revisionist, is not in any way helpful to the revisionist.

12. The Supreme Court in **Chanmuniya** (*supra*) observed that where a woman has lived with a man for a considerable period of time, she may be entitled to claim maintenance under Section 125 Cr.P.C. by treating such relationship as akin to that of a legally wedded wife. However, it is pertinent to note that, in the said case, the factum of marriage between the parties was not in dispute. In the present case, on the contrary, the very existence of the marital relationship has been specifically denied and the revisionist has failed to establish the solemnization of marriage between the parties. Opposite party no. 2 has categorically denied having any relationship with the revisionist. Moreover, there is neither any pleading nor any material on record to suggest that the parties were living in a live-in relationship. Accordingly, the facts of **Chanmuniya** (*supra*) are clearly distinguishable from the facts of the present case, and the ratio laid down therein has no application to the controversy involved in the present revision.

13. Where there is neither any specific pleading regarding the existence of a live-in relationship nor any evidence establishing the solemnization of marriage between the parties, the claimant seeking maintenance under

Section 125 Cr.P.C. cannot claim the benefit available to persons in a live-in relationship, particularly when the existence of such relationship has been categorically denied by the opposite party.

14. In view of the aforesaid, we are of the opinion that the submissions urged by the learned counsel appearing on behalf of opposite parties are clearly borne out from the record. The Trial Court, upon due consideration of the entire material available on record, has passed a reasoned and speaking order. This Court finds no illegality, perversity, or jurisdictional error in the impugned order warranting interference in the exercise of its revisional jurisdiction. The present Criminal Revision is devoid of merit and is, accordingly, liable to be dismissed.

15. It is, accordingly, **dismissed**.

(Lakshmi Kant Shukla,J.)

July 23, 2026

Brijesh Maurya