

Court No. - 32

Case :- CRIMINAL REVISION No. - 4315 of 2023

Revisionist :- Lalit Bansal

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Vikash Chandra Tiwari

Counsel for Opposite Party :- G.A.,Ramesh Pundir,Rekha Pundir

Hon'ble Surendra Singh-I,J.

1. Heard Sri Vikash Chandra Tiwari, learned counsel for the revisionist and Sri Ramesh Pundir, learned counsel for the opposite party.

2. This criminal revision has been filed against the order dated 07-07-2023 passed by learned Additional Principal Judge, Family Court, Gautam Buddh Nagar in Case No. 169 of 2022 (Shashi Vs. Lalit) under Section 125 Cr.P.C., P.S. Sector-24, Noida, District Gautambudh Nagar, whereby the trial court has rejected the application 15-Kha filed by the revisionist under Order 7 Rule 11 CPC and 126 Cr.P.C.

3. It has been submitted on behalf of the revisionist that the marriage of the revisionist was solemnized with opposite party no.2 at the parental house of opposite party no.2 at village-Khela, Tehsil-Khekda, district-Baghpat. After marriage the opposite party no.2 started living with the revisionist at her matrimonial home in village-Chirodi, P.S. Loni, district Ghaziabad. The opposite party no.2 never stayed at district Gautambudh Nagar. The opposite party no.2 has filed a rent agreement on stamp paper of rupees 10 regarding house situated at B-7, Sector-22, Noida Gautam Budh Nagar executed for a period of 10-09-2015 to 09-09-2025, which bears manifest error of law as there is no registration number nor identification details of the witness are disclosed. The opposite party no.2 has filed two Aadhar Cards having same Aadhar No. 7565 8999 8932. In the first Aadhar Card dated 01-07-2014 her place of residence is mentioned as P.S. Chandninagar, tehsil-Khekra Khaila, district Baghpat. In the second Aadhar Car her place of residence is mentioned as B-7, Sector-22, Noida, Gautambudh Nagar.

4. There was no occasion for the opposite party no.2 to change her address in the Aadhar Card while filing application under Section 125 Cr.P.C. at Noida and only for the purpose of harassing the revisionist, the opposite party no.2 has filed the application under Section 125 Cr.P.C. at district Noida. The Additional Principal Judge, Family Court, Gautam Buddh Nagar has no territorial jurisdiction, therefore, proceeding in that court cannot continue but the court without considering the objection of the revisionist has illegally rejected his application.

5. Learned counsel for the opposite party no.2 has submitted that the application

filed by the revisionist in the trial court under the provisions of CPC is not maintainable as proceedings under Section 125 Cr.P.C. is a criminal proceedings and the provisions of Cr.P.C. is applicable thereon.

6. It has further been submitted by the learned counsel for the opposite party no.2 that the opposite party no.2 is presently residing at B-7, Sector-22, Noida, Gautambudh Nagar and she has no concern with the parental house at district Baghpat.

7. I have heard learned counsel for both the parties and perused the record.

8. Regarding jurisdiction of an application under Section 125 Cr.P.C. for maintenance is provided under Section 126(1) Cr.P.C. which reads as under:-

"126. Procedure.

(1)Proceedings under section 125 may be taken against any person in any district-

(a) where he is, or

(b)where he or his wife, resides, or

(c)where he last resided with his wife, or as the case may be, with the mother of the illegitimate child."

9. According to sub-clause 1(a) of Section 126 Cr.P.C. any person can file an application for maintenance in a Court situate in a district where he/she resides.

10. The opposite party is presently residing at B-7, Sector-22, Noida, Gautambudh Nagar as it appears from the rent agreement which has been filed as annexure-15 to the affidavit filed in support of the revision. The rent agreement has been executed between Mrs. Jag Roshni W/o Ram Kumar Sharma- R/O B-7, Sector-22, Noida, Gautambudh Nagar and the opposite party no.2 Mrs. Shashi Tomer D/O Shri Dharamvir Singh, R/O Village-Khaila, district Baghpat, U.P..

11. From the rent agreement it appears that the opposite party resides at Gautambudh Nagar.

12. The revisionist has also given emphasis on the Aadhar Card of the opposite party no.2 in which the place of residence is shown as B-7, Sector-22, Noida, Gautambudh Nagar. He has stated that since in Aadhar Card dated 01-07-2014 her place of residence is mentioned as P.S. Chandninagar, tehsil-Khekra Khaila, district Baghpat, the subsequent Aadhar Card in which her place of residence is mentioned as B-7, Sector-22, Noida, Gautambudh Nagar is not valid and cannot be relied upon.

13. Since there is a provision for changing the address mentioned in the Aadhar Card after following the due procedure, the subsequent Aadhar Card in which her place of residence is mentioned as B-7, Sector-22, Noida, Gautambudh Nagar cannot be said to be invalid.

14. Since the opposite party no.2 is presently residing at B-7, Sector-22, Noida, Gautambudh Nagar, in view of Section 126(1)(a) Cr.P.C. the application under Section 125 Cr.P.C. is maintainable at Family Court, Gautam Buddh Nagar.

15. In view of above, there is no illegality, irregularity or impropriety in the impugned order passed by the learned trial court. There is no merit in the revision. The revision is liable to be dismissed. Revision is accordingly dismissed. A copy of the order be sent to the learned trial court for communication and necessary compliance.

Order Date :- 1.12.2023

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