

**Court No. - 91**

**Case :-** CRIMINAL REVISION No. - 947 of 2024

**Revisionist :-** Zainul Khan

**Opposite Party :-** State Of Up And 3 Others

**Counsel for Revisionist :-** Shaheen Bano,Shahnawaz Khan

**Counsel for Opposite Party :-** Bhanu Bhushan

Jauhari,G.A.,Rishi Bhushan Jauhari

**Hon'ble Madan Pal Singh,J.**

1. Heard Mr. Sudhir Bharti, Advocate holding brief of Ms. Shaheen Bano, learned counsel for the revisionist, Mr. Rishi Bhushan Jauhari, learned counsel for opposite party nos. 2 to 4 and the learned A.G.A. for the state as well as perused the record.

2. The present criminal revision has been preferred with the prayer to set aside the judgment and order passed by the Additional Principal Judge, Family Court, Shahjahanpur dated 30th January, 2024 in Criminal Misc. Case No. 246 of 2020 (Smt. Shagufta & Others Vs. Zainul Khan) under Section 125 Cr.P.C. whereby the Principal Judge has allowed the application under Section 125 Cr.P.C. filed by opposite party nos. 2 to 4 and directed the revisionist to pay Rs. 2,000/- per month to opposite party no.2 and Rs. 2,500/- per month each to opposite party nos. 3 and 4 from the date of filing of the application.

3. Facts in short are that the nikah/marriage of the revisionist was solemnized with opposite party no.2 on 8th January, 2015 in accordance with Muslim Rites and Rituals. From the aforesaid wedlock, opposite party nos. 3 and 4 were borne. After some time of marriage, the relationship between the revisionist and opposite party no.2 became stained and incompatible. Consequently, opposite party nos. 2 to 4 filed 246 of 2020 (Smt. Shagufta & Others Vs. Zainul Khan) under Section 125 Cr.P.C. on 9th January, 2023. After that the revisionist filed objection against the interim application on 12th July, 2021. After considering the oral as well as documentary evidence led by the parties before him, the Additional Principal Judge has passed the impugned judgment.

4. Learned counsel for the revisionist states that the Principal Judge has passed the impugned judgment and order without considering the evidence led by the revisionist regarding the bad character and second marriage of opposite party no.2 with one Dr. Illiyas Quadari. To buttress the said submission,

learned counsel for the revisionist states that there was a love affair between opposite party no.2 and one Dr. Ilyas Quadari and the opposite party no.2 was living in a live-in relationship with him. Her Nikah was also fixed with Dr. Ilyas Quadari. On 7th January, 2015 Dr. Ilyas Quadari came to Satyam Hotel for Nikah but when his wife and children reached there and the police intervened, the Nikah of opposite party no.2 with Dr. Ilyas Quadari was stopped. At the behest of brother of opposite party no.2, namely, Phool Mian alias Khwani, who was a friend of the the revisionist, he married opposite party no.2. The opposite party no.2 was 10 years older than the revisionist, beside that he married her. Since opposite party no.2 had an affair with Dr. Ilyas Quadari in the past, from the beginning of the marriage, she used to stay mostly at her maternal home and used to tell the revisionist that she was having an affair with Ilyas Qadari and used to insist him to go to her maternal home. Opposite party no. 2 used to go to her maternal home with both the children and used to return with great difficulty.

5. Apart from the above, learned counsel for the revisionist submits that on 4th April, 2021, opposite party no.2 solemnized her second marriage/Nikah with Dr. Ilyas Quadari on 4th April, 2021 without divorcing the revisionist. In support of the same, the learned counsel for the revisionist has placed reliance upon a document being document/paper no.39-C (Fehrist) dated 21st July, 2022 wherein at serial no. 5 it has been mentioned that opposite party no.2 married Dr. Ilyas Quadari on 4th April, 2021 and attested copy of the Nikahnama is certified.

6. Learned counsel for the revisionist then submits that though the fact that opposite party no.2 was living in adultery with Dr. Ilyas Quadari and also solemnized Nikah with him without divorcing the revisionist and the evidence in that regard had also been led before the family court, the Principal Judge has not considered the same and passed the impugned judgment, which is per se illegal. He, therefore, submits that it is settled law that a lady who is living in adultery with another person cannot entitled to any maintenance.

7. On the cumulative strength of the aforesaid, learned counsel for the revisionist states that the impugned judgment cannot be legally sustained and is liable to be set aside.

8. On the other-hand, learned counsel for opposite party no.2 and the learned A.G.A. for the State have opposed the present criminal revision by submitting that there is no illegality or infirmity in impugned judgment passed by the Principal Judge so as to warrant any interference by this Court in exercise of revisional jurisdiction. Further, learned counsel for opposite party no.2 states that it is an admitted fact that revisionist

married opposite party no.2 in the year 2015 and from their wedlock, opposite party nos. 3 and 4 were borne. It was just after filing of an application under Section 125 Cr.P.C. by opposite party no.2, the revisionist has taken plea of adultery and second marriage of opposite party no.2 with one Dr. Ilyas Quadari. Before filing of the same, the revisionist never made any complaint qua the same before any authority or person/relatives. Apart from the above, learned counsel for opposite party no.2 states that the revisionist has taken the said ground before the court below and adduced himself as D.W.-1 before the court below. The court below framed issue no.2 qua the aforesaid plea of the revisionist and while deciding the same by means of the impugned judgment, the court below has recording categorical finding of fact that the revisionist has failed to establish his case. The court below has opined that neither the revisionist was able to prove that the opposite party no.2 was living in adultery with one Dr. Ilyas Quadari nor any copy of Nikahnama of opposite party no.2 with Dr. Ilyas Quadari had been placed by him before the court below. It has also not been proved by the revisionist before the court below that opposite party no.2 was living separately from him.

9. On the above premise, learned counsel for opposite party no.2 submits that since the present criminal revision has no merit, therefore, the same is liable to be dismissed.

10. Having considered the submissions made by the learned counsel for the parties and having gone through the records of the present revision including the impugned judgment, this Court finds no substance in the submission of the learned counsel for the revisionist. This Court has carefully examined the finding recorded by the court below while passing the impugned judgment on a litmus test and found that the plea of adultery and second marriage of opposite party no.2 taken by the revisionist before the court below has been well considered by the court below. On the said issue, the court below has given its separate finding while deciding issue no.2 framed before it. The court below has recorded that the allegations made by the revisionist on the character of opposite party no.2 in the counter-plaint and the affidavit of evidence have neither been proved by any evidence nor had any such evidence been filed which made it clear that opposite party no.2 was living in a state of immorality after marriage. It is further recorded that after allegations are made on the character of a wife, it is natural for her to live separately from her husband and clearly if opposite party no.2 refuses to live with the revisionist, in these circumstances, then it cannot be said that the opposite party no.2 has no reason to live separately from the revisionist. Again, the court below has recorded that it is also condemnable to defame someone's character and after whatever statements have

been made by the revisionist about opposite party no.2 in his counter-plaint and the affidavit of evidence, the separate living of opposite party no.2 from the revisionist is an appropriate reason to live a life with respect. On the basis of aforesaid finding, the court below has opined that the revisionist has failed to prove that opposite party no.2 was living separately from the revisionist without any reasonable cause. Hence, this point goes negative against the revisionist.

11. On the above premise, this Court finds no illegality or infirmity in the impugned the judgment and order passed by the Additional Principal Judge, Family Court, Shahjahanpur dated 30th January, 2024 in Criminal Misc. Case No. 246 of 2020 (Smt. Shagufta & Others Vs. Zainul Khan) under Section 125 Cr.P.C.

12.The present criminal revision lacks merit and is accordingly, **dismissed**.

(Madan Pal Singh, J.)

**Order Date :- 12.8.2025**  
Sushil/-