

Court No. - 79

Case :- CRIMINAL REVISION No. - 1378 of 2025

Revisionist :- Dr. Mohar Singh

Opposite Party :- State Of U.P. And 2 Others

Counsel for Revisionist :- Vimal Kumar

Counsel for Opposite Party :- Brahma Kumar Tiwari,G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the revisionist, learned counsel for the opposite party no. 2 as well as learned A.G.A. for the State and perused the material on record.

This criminal revision has been filed by the revisionist with a prayer to allow the revision and quash the judgment and order dated 12.02.2025 passed by the learned Principal Judge, Family Court, Muzaffar Nagar in Criminal Miscellaneous Case No. 986 of 2021 (Smt. Raj Bala and others Vs. Dr. Mohar Singh) under Section 125 Cr.P.C., Police Station Kotwali Nagar, District Muzaffar Nagar and furthermore prays to stay the effect and operation of the aforesaid order during the pendency of this revision.

It is submitted by learned counsel for the revisionist that in this case the opposite party no. 2 is wife and opposite party no. 3 is son of the revisionist. He further submits that the opposite party no. 2 is living apart from the revisionist without any sufficient reason and opposite party no. 3, Sanjay Kumar who is major and not physically handicapped and disabled person though shown to be physically handicapped. The marriage was performed in the year 1973. Out of wedlock three children were born, thereafter the opposite party no. 2 left her and started living separately. Ex-parte decree for divorce was also passed in favour of the revisionist and thereafter in the year 1983, he entered into second marriage. Since then she did not move any application for maintenance but in the year 2021 present application for maintenance was filed under Section 125 Cr.P.C. against the revisionist. He further submits that he is aged about 74 years and too old to practice as doctor. Now, he remains ill and not in a position to make earning. The Multi Specialty Hospital and the Diagnostic Centre is also not owned by the revisionist but it is operated by sons from second wife. He has liability of repayment of loan for which E.M.I. is Rs. 47,700/- per

month. He also submits that the amount of Rs. 20,000/- per month was claimed by her for maintenance for herself and Rs. 30,000/- per month for the son Sanjay Kumar who is said to be handicapped. The claim for opposite party no. 3, Sanjay Kumar was rejected by the learned court since he could not be proved to be handicapped and disabled but the learned trial court has fixed the amount of maintenance Rs. 25,000/- per month in favour of wife/opposite party no. 2 i.e. more than she claimed. The learned trial court did not consider the facts and circumstances of the case and a decree of divorce passed by the learned trial court showing her character and also the capability of making income of the revisionist, therefore, it cannot be said to be lawful but it being illegal is liable to be set aside.

Learned counsel for the opposite party no. 2 as well as learned A.G.A. opposed the prayer as aforesaid and contended that in this case the opposite party nos. 2 and 3 are first wife and son of the revisionist. Due to neglect and misbehaviour on the part of revisionist opposite party no. 2 is living apart from him. In her lifetime, he entered into second marriage with Rajrani in the year 1983 and in the village where she (the opposite party no. 2) was living with Sanjay Kumar he also sold the house as a result she was under compulsion to live with handicapped son Sanjay Kumar and daughter Anjali with her daughter and son-in-law. The revisionist did not provide any amount of maintenance to opposite party nos. 2 and 3. He owns nursing home and diagnostic centre in Meerut and makes handsome income and is able to make payment of amount of maintenance to his legally wedded wife/opposite party no. 2. The ex-parte decree of divorce was obtained by the revisionist after doing fraud on her and also on the court in the year 1981 but it was not passed on the ground of adultery. Since the opposite party no. 2 has not remarried and is also becoming old, therefore, she is entitled for maintenance from her husband as being unable to maintain herself. The revisionist has concealed his income from the hospital and also from the diagnostic centre showing it to be operated by the son of his second wife. It has been done by him only to deprive the opposite party no. 2 from the right of maintenance. The learned trial court considered all the facts and circumstances of the case and also the source of income of the revisionist and then passed the order in question fixing the amount Rs. 25,000/- per month as maintenance, therefore, it cannot be said to be illegal.

On considering the facts and circumstances of the case, submissions made by learned counsel for both the parties as well

as learned A.G.A. and perusal of record, the order passed by the learned trial court dated 12.02.2025, it appears that admittedly the opposite party no. 2 is first wife of the revisionist who is living apart from him with handicapped son Sanjay Kumar due to neglect on the part of the revisionist. The revisionist is not making payment of any amount to her as maintenance but he himself has entered into second marriage and living with second wife. He is doctor and runs Multi Speciality Hospital and a Diagnostic Centre. The name of hospital is Dr. Mohar Singh Burman Hospital having three storeys and Dr. Mohar Singh Burman and Diagnostic Centre. The photographs of hospital and diagnostic centre were also put before the revisionist at the time of examination before the learned trial court which he admitted but told about hospital to be of his wife and the Diagnostic Centre owned by himself. He has also disclosed that he owns twenty six and half bigha paternal land but did not disclose specific income before the learned trial court. He also stated about liability of loan and the E.M.I. Rs. 47,700/- to be paid per month by him. On the basis of these facts the learned trial court has assessed the income of the revisionist on the basis of guess work and fixed the amount of Rs. 25,000/- per month as maintenance in favour of wife/opposite party no. 2 and rejected the claim of Sanjay Kumar said to be handicapped since his disability certificate showing 45% disability was issued in the year 1991. In view of liabilities of the revisionist regarding repayment of loan the amount fixed by the learned trial court in favour of wife as maintenance is liable to be reduced to the extent of Rs. 20,000/- per month from Rs. 25,000/- per month.

Accordingly, this criminal revision is ***partly allowed*** with modification to the extent of amount of maintenance. Rs. 25,000/- per month are reduced to the extent of Rs. 20,000/- per month from the date of application.

The amount of arrears of maintenance payable by the revisionist from the date of application to the date of order shall be divided into ten equal installments payable with the current amount of maintenance.

Order Date :- 21.5.2025

Suraj Srivastav