

Court No. - 88

Case :- CRIMINAL REVISION No. - 2099 of 2025

Revisionist :- Harun Ahmad @ Banne

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

Counsel for Revisionist :- Manvendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Anil Kumar-X,J.

1. Heard Sri Manvendra Singh, learned counsel for the revisionist, Sri Mohd. Javed Akhtar, learned counsel for opposite party no.2 and Sri Raj Bahadur Verma, learned A.G.A. for the State.

2. The present criminal revision has been preferred against the judgment dated 18.3.2025 passed by learned Principal Judge, Family Court, Fatehpur in Criminal Case No.10 of 2020 (Shabina Vs. Harun Ahmad @ Banne) under Sections 125 Cr.P.C. By the said impugned judgment, learned Court has directed the revisionist to pay a maintenance amount of Rs.2,500/- per month in favour of respondent no.-2 Shabina.

3. Learned counsel for revisionist has submitted that above petition under Section 125 of Cr.P.C. was filed by respondent no.2 wherein she has prayed maintenance amount to be paid by the revisionist by claiming herself as wife of revisionist. Specific averment was made by the revisionist in his objections before Trial Court that he was never married to respondent no.2 and also stated that respondent no.2 is a married lady. It was further stated that respondent is a married lady and was earlier married to one Washeem Ahmad from whom she has two daughters. She has not obtained divorced from her earlier husband and also owns her husband property. Hence, she cannot claim to be legally wedded wife of the revisionist.

4. It was further submitted by learned counsel for the revisionist that respondent no.2 has not disclosed date of alleged Nikah with revisionist either in her petition or in her examination-in-chief. Respondent has relied upon a bogus Nikahnama to substantiate her claim of marriage with revisionist. As per entry of alleged Nikahnama, alleged Nikah between revisionist and respondent no.2 was performed at village Asti. PW-3(Mustaq Ahmad) one of

the witnesses of Nikahnama is also maternal grand father of respondent no.2. This witness has stated in his cross examination that alleged Nikah was performed at his village Udhanapur. A bare perusal of the Nikahnama reflects that date of Nikah is mentioned in English as well as Urdu. Date of Nikah is mentioned as 28.12.2018. It is evident that year 2018 has been tempered as 2017. The said Nikahnama bears forged signature of Maulana Sabahuddin. Above material discrepancies are sufficient to establish that Nikahnama produced by the respondent no.2 is a forged one.

5. It was submitted by the learned counsel for the revisionist that respondent no.2 has not produced any photograph or videos of the alleged Nikah. Even revisionist no.2 and her mother Shakila Begum have admitted that they have not filed any photographs or videos of the said Nikah. Entire circumstances if scrutinized cumulatively will only lead to one conclusion that respondent no.2 has obtained the impugned judgment of maintenance in her favour by falsely representing herself as legally wedded wife of revisionist. Revisionist further submits that he was married to Rubina Begum. An application under Section 125 Cr.P.C. No.257/2017 (Smt. Rubina Begum Vs. Harul Ahamd) was filed by Smt. Rubina Begum, where revisionist has been directed to pay monthly maintenance of Rs.8000/- in favour of Smt. Rubina Begum and her son. If the impugned order dated 18.3.2025 is not set aside, revisionist will have to face undue harassment by paying maintenance amount not only to present respondent but also to his earlier wife. Therefore, the impugned order is perverse and is liable to be set aside as it has been passed without considering the fact that respondent was unable to prove her marriage with revisionist.

6. Learned counsel for respondent no.2 has submitted that entire evidence on record was meticulously examined by the learned Principal Judge. Contention regarding forged Nikahnama was examined by the Court where it has categorically held that signatures of revisionist on Nikahnama match with the signature of the revisionist on the objection filed in the petition. Learned Trial Court has held that it is visible from naked eyes that both signatures match with each other. Moreover, if the revisionist so claims that his signature on Nikahnama were forged, burden was on him to prove the same by getting the signature verified by any handwriting expert. But the revisionist has only made bald allegations and has not taken any steps for getting the signatures verified by any expert. It was further submitted that revisionist

himself has filed the judgment passed in Case No.257/2017 (Smt. Rubina Begum and another Vs. Harul Ahmad) where the earlier wife of revisionist has herself stated that present revisionist Harul has performed Nikah with present respondent Sabina. Therefore, averments of earlier wife in his petition also corroborates the fact that the revisionist has married with respondent. Revisionist has not adduced any cogent evidence to negate his marriage with respondent no.2. Impugned order does not suffer from any infirmity and hence, this revision being devoid of merits is liable to be set aside.

7. Heard learned counsel for the parties and perused the impugned judgment.

8. Learned counsel for the revisionist has mainly confined his argument as to the factum of marriage with respondent no.2 and has vehemently argued that marriage between revisionist and respondent was not proved and yet order of maintenance has been passed against revisionist.

9. So far as factum of marriage between revisionist and respondent no.2 is concerned, it will be relevant to consider the grounds raised by the revisionist. The revisionist has submitted that Nikahnama produced before the Court was forged. It was further contended that date of Nikha mentioned in English has been over written and year 2018 has been changed to year 2017. Other contention is that signatures of revisionist on the Nikahnama is illegible and his signatures have been forged. Learned Trial Court has considered these arguments and has held that though there is over writing in the date of Nikah but it has taken note of the fact that said date i.e. 28.12.2018 was Friday as apparent from calendar. Regarding claim made by the revisionist that his signatures were forged, learned Trial Court has observed that bare comparison of signature of revisionist in his objections filed in the petition and his signature on Nikahnama reflects that both are exactly same. Learned Trial Court has also held that it was the duty of the revisionist to get this signatures examined by some handwriting expert if he is challenging genuineness of his signature, but he has not made any attempt to do so. On the said findings, learned Trial Court has discarded the objections raised by the revisionist as to the genuineness of Nikahnama. Findings of learned Trial Court on this particular point do not suffer from any illegality. Law of evidence is very much settled as to the mode of proving or disproving documents. Revisionist in this case has challenged the genuineness of the document and it was his duty to prove that the alleged Nikahnama was forged but he has failed to do so.

10. So far as the argument raised by the revisionist that respondent has not mentioned the date of Nikahnama either in her petition or in her examination-in-chief, said argument has no force. If alleged Nikahnama was adduced before the Court and one of its witness Mustaq Ahmad who is also maternal grandfather of respondent has proved it, the other means to disprove it was upon the revisionist by challenging its genuineness by means of summoning any handwriting expert. But revisionist has failed to do so. Testimony of Mustaq Ahmad wherein he has mentioned place of Nikah other than that mentioned in the Nikahnama and that photographs and videos of Nikah being not produced in evidence, is irrelevant. Learned Trial Court has elaborately dealt with this point by referring to judgment of Supreme Court in **Dwarika Prasad Satpathy Vs. Vidut Prabha Dixit and another, AIR 1999 SC 3348**. It was held in this judgment that standard of proof of marriage in a section 125 proceedings is not as strict as is required in a Trial for an offence under Section 494 IPC because an order passed in an application under Section 125 Cr.P.C. does not really determine the rights and obligations of the parties as the section is enacted with a view to provide a summary remedy to neglected wives to obtain maintenance. It was further held that where there was some evidence on which Court can conclude that couples are living together as husband and wife, the maintenance cannot be denied. Mere prima facie material on record to suggest that parties have married or are having relationship in nature of marriage is sufficient for Court to presume in favour of women claiming maintenance.

11. In case at hand, respondent no. 2 in her pleadings has claimed her *nikah* with revisionist and has also adduced her mother Shakila and her maternal grandfather Mustaq Ahmad to prove that her *nikah* was performed with revisionist. Revisionist has questioned the genuineness of nikahnama to challenge the alleged nikah between him and respondent no. 2. Revisionist has also cross examined all the witnesses yet has failed to show anything in their cross examination from which it can be inferred that testimony of witnesses in respect of marriage between the parties is unreliable. Nikahnama produced by the respondent cannot be discarded merely because figure 8 in year 2018 has been over written by changing into 2017 as the said nikahnama has been proved by one of its witness Mustaq. Moreover, respondent has also produced her mother and maternal grandfather to prove her marriage. Above adduced evidence is sufficient for coming to conclusion that prima facie evidence is available to prove the factum of marriage. Therefore, impugned order dated 18.3.2025 does not warrants any

interference.

12. Accordingly, the present criminal revision is **dismissed**.

Order Date :- 25.7.2025

Mukesh/Ujjawal