



2025:AHC:165320

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL REVISION No. - 2430 of 2024**

Zafar Iqbal

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite  
Party(s)

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| Counsel for Revisionist(s)    | : Rajeev Kumar Singh Parmar, Umesh Kumar |
| Counsel for Opposite Party(s) | : G.A., Laxmi Narayan Rathour            |

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**Court No. - 91**

**HON'BLE MADAN PAL SINGH, J.**

1. Case is called out in the revised list. Despite the fact that name of Mr. Laxmi Narayan Rathor, Advocate has been shown in the cause list from the side of opposite party no.2, but no one appears for opposite party no.2.
2. Heard Mr. Umesh Kumar, learned counsel for the revisionist and the learned A.G.A. for the State.
3. This criminal revision has been filed by the revisionist under Section 397/401 Cr.P.C. with a prayer to set aside the judgment and order dated 21st February, 2024 passed by the Principal Judge, Family Court, Jalaun at Orai, in Case No. 36 of 2021 (Smt. Chandni Bano Vs. Zafar Iqbal), under Section 125 Cr.P.C., whereby the trial court while partly allowing the application filed by opposite party no.2 under Section 125 Cr.P.C. has directed the revisionist to pay Rs. 4,000/- per month to opposite party no.2 (wife) towards maintenance allowance on 10th day of each calendar month from the date of filing of instant application.
4. The learned counsel for the revisionist submits that voluntarily, opposite party no.2 is living separately from her husband i.e. revisionist as she is in love with one Braj Kishor. Before marrying the revisionist, opposite party no.2 was in love with said Braj Kishore and she had also married him on 6th July, 2018 and in support of the same, a marriage certificate issued by Arya Samaj Mandir, Shatabdipuram, Gwalior has been brought on record at page no. 105 of the paper book. Learned counsel for the revisionist has also drawn the attention of the Court to the agreement letter in form of an affidavit in which opposite party no.2 and said Braj Kishor declared that since they are major, they have solemnized their marriage with their own free will and without any pressure or influence. Learned counsel for the revisionist further submits

that since said Brij Kishore belonged to a different religion, the parents of opposite party no.2 did not approve of her love affair with Braj Kishore and their marriage, so opposite party no.2 married the revisionist under pressure of her parents on 4th September, 2018 i.e. just after two months from her first marriage with Braj Kishor. To buttress the said issue, some photographs of opposite party no.2 in obscene condition with Braj Kishor have also been enclosed along with the supplementary affidavit. Learned counsel for the revisionist again submits that when opposite party no.2 left her matrimonial house without any reason and did not return, the revisionist filed a petition under Section 281 of the Mohammedan Law before the Principal Judge, Family Court, Mahoba which is still pending consideration, a copy of which has been brought on record at page 113 onwards of the paper book.

5. Learned counsel for the revisionist has stated that before the trial court the revisionist in his written statements have specifically stated that opposite party no.2 is living in adultery with Braj Kishor and has also produced the above marriage certificate, agreement letter and obscene photographs before the trial court. However, the trial court while deciding issue no. 4 has recorded that since the obscene photographs of opposite party no.2 with Braj Kishor have been produced before the trial court after the cross-examination of opposite party no.1 as P.W.-1, therefore, the same cannot be considered at latter stage. In view of the said finding, the trial court has rejected the ground of the revisionist that opposite party no.2 is living in adultery. Since the allegation made by the revisionist before the trial court is a very serious and the same is liable to be examined deeply and the trial court has not do the same in casual manner, the impugned judgment passed by the trial court is liable to be set aside.

6. On the other-hand, the learned A.G.A. for the State has opposed the submissions made by the learned counsel for the revisionist by submitting that the trial court has not committed any illegality or infirmity in passing the impugned judgment and awarding Rs. 4,000/- per month in favour of opposite party no.2 from the date of filing of application under Section 125 Cr.P.C. so as to warrant any interference by this Court in exercise of revisional jurisdiction.

7. Besides the above, learned A.G.A. submits that since opposite party no.2 is legally wedded wife of the revisionist, therefore, it is obligatory upon him to maintain his wife i.e. opposite party no.2.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties as well as perusal of record including the impugned judgment, this Court is of the opinion that it is no doubt true that the

opposite party no.2 is legally wedded wife of the revisionist and the revisionist cannot shirk upon his pious duty to maintain his wife i.e. opposite party no.2. The Hon'ble Supreme Court of India, in the case of **Rajnesh Vs. Neha** reported in (2021) 2 SCC 324 has opined that since it is the sacrosanct duty of the husband to provide financial support to the wife, the husband is required to earn money even by physical labour, if he is able-bodied, and cannot not avoid his obligation.

9. However, since the allegation of adultery levelled by the revisionist against opposite party no.2 is a very serious one, which, if proved, will have an impact on the entire case under Section 125 Cr.P.C., therefore, this Court is inclined to deal with the issue of adultery.

10. In the instant application filed by opposite party no.2, in paragraph no.2 she herself stated that the revisionist takes his friends to his home and takes nude photographs of opposite party no.2 with them and when she protest, he beats her.

11. In the written statements filed by the revisionist before the trial court, the revisionist has denied the aforesaid allegations made by opposite party no.2 in her instant application under Section 125 Cr.P.C. He has stated in his written statements that before her marriage, when opposite party no.2 was doing her B.Sc. Nursing Course at Gwalior, she was in love with Braj Kishor and she also married him and she went along with Braj Kishor for their honeymoon. Since the parents of opposite party no.2 did not approve her said relationship and marriage with Braj Kishore, later she married the revisionist under pressure of her parents. It is further stated that after some time of marriage of opposite party no.2 with the revisionist, said Braj Kshore contacted the revisionist on phone and told him that he had already married opposite party no.2. On the asking of the revisionist, Braj Kishore had also sent marriage certificate, mutual agreement of marriage, net chatting and photographs of honeymoon to the revisionist through mobile phone. He again stated that despite all these things, the revisionist still wants to keep opposite party no.2 with him as his wife, but she still does not want to live with him. After submissions of the written statements, the revisionist has also filed photographs of opposite party no.2 with Braj Kishore in obscene condition before the trial court.

12. The trial court while deciding the issue no.4 has not accepted the plea of the revisionist that the opposite party no.2 is living in adultery with Braj Kishore while ignoring the photographs of opposite party no.2 with Braj Kishore by recording a finding that since the said photographs have been filed after the completion of the cross-examination of opposite party no.2 as P.W.-

2, therefore, the same cannot be considered at the later stage.

13. There is no doubt that opposite party no.2 herself admits in her instant application under Section 125 Cr.P.C. that the revisionist forcibly takes obscene photos of her and his friends with her. Even otherwise, the documentary evidence produced by the revisionist before the trial court with regard to illicit relationship of opposite party no.2 and Braj Kishore has not been examined by the trial court. The point whether the opposite party no.2 was/is in relation with Braj Kishore after or before her marriage, is also required to be examined.

14. In the opinion of the court such allegation needs to be examined deeply by the trial court while deciding the instant application under Section 125 Cr.P.C. as the issue of living of opposite party no.2 in adultery affect the entire case.

15. Consequently, judgment and order dated 21st February, 2024 passed by the Principal Judge, Family Court, Jalaun at Orai, in Case No. 36 of 2021 (Smt. Chandni Bano Vs. Zafar Iqbal), under Section 125 Cr.P.C. is set aside. The matter is remanded back to the Principal Judge, Family Court, Jalaun at Orai to decide the matter afresh.

16. The Principal Judge, Family Court, shall decide the matter, in accordance with law and the observations made above, by means of a reasoned speaking order, preferably within four months from the date of production of a certified copy of this order, after affording opportunity of hearing to the parties concerned, without giving any unnecessary adjournments to either of the parties, if there is no other legal impediment.

17. The present criminal revision is, accordingly, allowed subject to the observations made above.

18. There shall be no order as to costs.

**September 16, 2025**  
Sushil/-

**(Madan Pal Singh,J.)**