



2025:AHC:160272

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4797 of 2024

Pradeep Kumar

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Mayuri Mehrotra, Shubhanjali Gupta
Counsel for Opposite Party(s)	:	G.A., Shakil Ahmad

Court No. - 91

HON'BLE MADAN PAL SINGH, J.

1. Second supplementary affidavit filed on behalf of the revisionist in the Court today is taken on record.
2. Learned counsel for the revisionist is permitted to amend the prayer clause of the present criminal revision today itself.
3. Heard Ms. Mayuri Mehrotra, learned counsel for the revisionist, the learned A.G.A. for the State and Mr. Shakil Ahmad, learned counsel for opposite party no.2.
4. Learned counsel for the parties agree that the present criminal revision may be disposed of finally without calling for any further affidavit in view of the order which is being proposed to be passed today.
5. This criminal revision under Section 397/401 Cr.P.C. has been preferred by the revisionist against the judgment and order dated 16th August, 2024 passed by the Additional Principal Judge, Family Court, Bijnor in Criminal Misc. Case No. 800 of 2023 (Pradeep Kumar Vs. Laxmi), under Section 126 (2) Cr.P.C. and also the ex-parte judgment and order dated 21st October, 2021 passed by the Additional Principal Judge, Family Court, Bijnor in Criminal Misc. Case No. 429 of 2018 (Smt. Laxmi & Another Vs. Pradeep Kumar), under Section 125 Cr.P.C., Police Station-Kiratpur, District-Bijnor.
6. By the impugned ex-parte judgment and order dated 21st October, 2021, the Additional Principal Judge has partly allowed the application filed by opposite party nos. 2 and 3 under Section 125 Cr.P.C. directing the revisionist to pay Rs. 3,000/- per month to opposite party no.2 and Rs. 5,000/- per month to opposite party no.3 towards maintenance allowance on first week of each calendar month from the date of filing of the application. Against the said ex-parte judgment and order, the revisionist filed an application under Section

126 (2) Cr.P.C. before the Principal Judge for recall of the ex-parte judgment but the said application has also been rejected by the Additional Principal Judge vide impugned order dated 16th August, 2024. Hence the present criminal revision.

7. Learned counsel for the revisionist submits that since there was an oral compromise entered into between the revisionist and opposite party no.2 earlier and on the basis of said compromise, opposite party no.2 assured that she will withdraw the proceedings under Section 125 Cr.P.C. but she did not do so and even though notice was served upon him, the revisionist on the basis of assurance given by the opposite party no.2 did not appear before the trial court. Ultimately the impugned ex-parte judgment and order dated 21st October, 2021 has been passed by the Additional Principal Judge affording any opportunity of hearing to the revisionist, which is in violation of principles of natural justice. He further submits that in the proceedings under Section 126 (2) also, the Additional Principal Judge vide impugned order dated 16th August, 2024 has committed the same error in rejecting the application of the revisionist for recall of the ex-parte judgment. He, therefore, submits that in the interest of substantial justice, he may be granted one more opportunity to have his say in the proceedings under Section 125 Cr.P.C. so that the matter may be decided on merits.

8. Besides the above, learned counsel for the revisionist states that if the ex-parte judgment and order passed by the trial court is set aside and till the application under Section 125 Cr.P.C. is finally decided afresh on merits after affording one more opportunity of hearing to the revisionist, he is ready to pay some amount i.e. Rs. 2,00,000/- in two strokes towards arrears of monthly maintenance allowance and the revisionist shall pay Rs. 1,500/- per month to opposite party no.2 and Rs. 2,500/- per month to opposite party no.3 towards maintenance allowance on first week of each calendar month regularly as awarded by the trial court under the impugned ex-parte judgment and order.

9. 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 but they could not dispute that the impugned judgment and order passed by the trial court is an ex-parte judgment and matter should have been decided on merits.

10. I have considered the submissions made by the learned counsel for the parties and have gone through the records of the present criminal revision including both the impugned judgments.

11. It is not disputed between the parties that the judgment and order dated 21st October, 2021 is ex-parte and the same has not been decided after

hearing the revisionist or his counsel.

12. It is settled law that every order passed, which results in evil civil consequence to a party, must be consistent with the rules of principles of natural justice, failing which the same would be unsustainable in the eyes of law.

13. Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.

14. Under such circumstances, this Court is of the opinion that the revisionist should be granted one more opportunity to have his say in the proceedings under Section 125 Cr.P.C.

15. Consequently, the judgment and order dated 16th August, 2024 passed by the Additional Principal Judge, Family Court, Bijnor in Criminal Misc. Case No. 800 of 2023 (Pradeep Kumar Vs. Laxmi), under Section 126 (2) Cr.P.C. and also the ex-parte judgment and order dated 21st October, 2021 passed by the Additional Principal Judge, Family Court, Bijnor in Criminal Misc. Case No. 429 of 2018 (Smt. Laxmi & Another Vs. Pradeep Kumar), under Section 125 Cr.P.C., Police Station-Kiratpur, District-Bijnor are set aside.

16. The revisionist is directed to deposit Rs. 1,00,000/- towards arrears of maintenance allowance awarded in favour of opposite party no.2 by the trial court under the impugned ex-parte judgment along with a certified copy of this order within four weeks from today and thereafter he shall deposit Rs. 1,00,000/- in favour of opposite party no.2 within four weeks thereafter. After deposit of Rs. 2,00,000/- the trial court shall consider and decide the proceedings under Section 125 Cr.P.C. afresh, in accordance with law and the guidelines as framed by the Hon'ble Supreme Court in the case of **Rajnesh v. Neha** reported in (2021) 2 SCC 324 and **Kulbhushan Kumar (Dr) v. Raj Kumari** reported in (1970) 3 SCC 12, by means of a reasoned and speaking order, after affording opportunity of hearing to both the parties preferably within two months from the date of production of a certified copy of this order along with a receipt of deposit of Rs. 1,50,000/- towards arrears of maintenance allowance by the revisionist, without granting any unnecessary adjournments to either of the parties, if there is no other legal impediment. The revisionist shall pay Rs. 1,500/- per month to opposite party no.2 and Rs. 2,500/- per month to opposite party no.3 towards maintenance allowance on first week of each calendar month regularly as awarded by the trial court under

the impugned ex-parte judgment and order till the application under Section 125 Cr.P.C. is finally decided.

17. It is also clarified that the total amount of arrears as deposited by the revisionist before the trial court in favour of opposite party no.2 and the monthly maintenance allowance to be paid by the revisionist in favour of opposite party nos. 2 and 3 till the final decision of the proceedings under Section 125 Cr.P.C. as directed above shall be subject to final outcome of the proceedings under Section 125 Cr.P.C., which shall be decided afresh as directed by this Court herein above.

18. It is made clear that in case the revisionist does not comply with any of the above direction, the trial court shall be free to proceed against the revisionist in accordance with law.

19. The present criminal revision is allowed subject to the observations and directions made above.

September 10, 2025
Sushil/-

(Madan Pal Singh,J.)