



2025:AHC:178882

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6224 of 2024

Smita Rai

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Sachchidanand Srivastava
Counsel for Opposite Party(s)	:	G.A., Juned Alam

Court No. - 89

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Sachchidanand Srivastava, learned counsel for the revisionist, Mr. Juned Alam, learned counsel for opposite party no.2 and the learned A.G.A. for the State.

2. The instant criminal revision under Section 397/401 Cr.P.C. has been preferred by the revisionist with a prayer to quash/set aside the judgment and order passed by the Additional Principal Judge, Family Court, Kushinagar dated 19th October, 2024 in Maintenance Case No. 135 of 2022 (Smita Rai Vs. Ajay Rai @ Raja), under Section 125 Cr.P.C., whereby the trial court has rejected the application of the revisionist filed under Section 125Cr.P.C.

3. The contention of the learned counsel for the revisionist is that the trial court while passing the impugned judgment has rejected the application of the revisionist under Section 125 Cr.P.C. in arbitrary manner without considering the allegations made by her during the course of trial. Learned counsel for the revisionist further submits that there is no dispute that the marriage of the revisionist was solemnized with opposite party no.2 on 26th May, 2021 in which her parents gave sufficient dowry to opposite party no.2 as per their capacity. He then submits that for three reasons, the revisionist is living separately from her husband i.e. opposite party no.2, the first is that since marriage, the opposite party no.2 and his mother being greedy started demanding additional dowry and for non-fulfillment of the same, they used to torture and harass her, the second is that the opposite party no.2 was addicted to alcohol and after drinking he used to abuse and beat the revisionist brutally and third is that the opposite party no.2 has already in illicit

relationship with one Shruti Rai, who is sister-in-law of his friend Mukesh Rai and under her influence, opposite party no.2 used to treat the revisionist with extreme cruelty, on 6th October, 2021 the revisionist saw the objectionable and obscene photos and videos of opposite party no.2 and said Shruti Rai on the mobile phone of opposite party no.2 and when the revisionist protested to the said relationship, opposite party no.2 while admitting his relationship with Shruti Rai stated that he could not leave her. In support of the same, learned counsel for the revisionist has referred to paragraph nos. 17 and 18 of the impugned judgment. Apart from the above, the mother of the revisionist i.e. Vimla Rai as P.W.-2 has also stated that the opposite party no.2 has illicit relationship with the sister-in-law of Mukesh Rai.

4. Learned counsel for the revisionist has submitted that the aforesaid facts/allegations have not been considered by the trial court while passing the impugned judgment, which is unsustainable in the eyes of law.

5. Learned counsel for the revisionist has also invited the attention of the Court to page no.116 i.e. the cross-examination of opposite party no.2 Ajay Rai in which the opposite party no.2 has stated that "it is correct to say that the revisionist Smita Rai repeatedly discouraged him from having a relationship with sister-in-law of Mukesh Rai, namely, Shruti Rai", meaning thereby that the opposite party no.2 has not denied his illicit relationship with Shruti Rai. Learned counsel for the revisionist, therefore, submits that for the aforesaid reasons, the revisionist has no other option but to live separately.

6. On the above premise, learned counsel for the revisionist submits that despite the fact that the revisionist has made such serious allegations against the opposite party no.2 about her separate living but the trial court has not considered the same and rejected the claim of the revisionist without appreciation of evidence and also without application of mind. Such order is, therefore, liable to be set aside.

7. On the other-hand, the learned counsel for opposite party no.2 and the learned A.G.A. for the State have 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 rejecting the claim of the revisionist, so as to warrant any interference by this Court in exercise of revisional jurisdiction.

8. Besides the above, learned counsel for opposite party no.2 submits that there is no documentary evidence adduced before the trial court to certify the illicit relationship of opposite party no.2 with Shruti Rai as alleged by the revisionist and the allegation qua harassment and cruelty on the part of the opposite party no.2 due to non-fulfillment of additional demand of dowry is also baseless. The trial court has rightly come to the conclusion that the revisionist is living separately within any sufficient cause.

9. On the premise, learned counsel for opposite party no.2 submits that since there is no illegality in the judgment impugned, the present criminal revision is liable to be dismissed.

10. 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 finds that it is an admitted case that the revisionist is legally wedded wife of the opposite party no.2. There is also nothing on record to establish that the revisionist has any source of income to maintain herself and the opposite party no.2 has also failed to prove that she earns some money to maintain herself.

11. So far as the finding recorded by the trial court under the impugned judgment regarding the separate living of the revisionist with her husband i.e. opposite party no.2 is concerned, this Court finds from the record including the impugned judgment that the revisionist has made serious allegations against her husband i.e. opposite party no.2 on the basis of which she tried to justify her stand of separate living. In her application under Section 125 Cr.P.C. as well as in her testimony, she has stated that due to additional demand of dowry, she was subjected to harassment and cruelty on the part of the opposite party no.2 and his mother, and she was also subjected to beating by opposite party no.2 in a state of intoxication and she has also stated that the opposite party no.2 has already in illicit relationship with Shruti Rai, sister-in-law of his friend Mukesh Rai. In the cross-examination which is at page no. 116, when a question being put, he has stated that "यह कहना सही है कि स्मिता मुझे बार-बार मुकेश राय की साली श्रुति राय से संबंध रखने के लिए मना करती थी"

12. The said statement appears to be an acceptance of the relationship of opposite party no.2 with Shruti Rai. From his cross-examination, it also

appears that the opposite party no.2 has not made his best efforts to take the revisionist back to her matrimonial house. The three allegations alleged by the revisionist are so serious and in the opinion of the Court, the same might be a sufficient cause for her living separately from her husband i.e. opposite party no.2, which were required to be scrutinized deeply by the trial court. There was discord existed between the parties for some issues.

13. The provisions of Section 125 Cr.P.C. are beneficial to the woman, hence it was enacted for the protection of every women and children from the despair, destitution and frustration. Therefore, it is legal and pious duty of the opposite party no.2 to maintain his wife i.e. the revisionist.

14. This Court may also record that in Indian culture, no married woman wants to live separately from her husband and her in-laws without any valid reason. It is an admitted position from the impugned judgment that the marriage of the revisionist was solemnized with opposite party no.2 on 26th May, 2021 and she left her matrimonial house and is living separately from 7th October, 2021. This means that what happened to the revisionist in just a few month that it became difficult and unbearable for her to live with the opposite party no.2 at her matrimonial house.

15. In view of the above deliberation and discussion, this Court finds that the trial court has not considered such facts as observed above and has passed the impugned judgment while rejecting the claim of the revisionist under Section 125 Cr.P.C.

16. Consequently, the judgment and order passed by the Additional Principal Judge, Family Court, Kushinagar dated 19th October, 2024 in Maintenance Case No. 135 of 2022 (Smita Rai Vs. Ajay Rai @ Raja), under Section 125 Cr.P.C is set aside.

17. In order to achieve the real intent of the legislation, the matter is remanded back to the trial court to decide the Maintenance Case No. 135 of 2022 (Smita Rai Vs. Ajay Rai @ Raja), under Section 125 Cr.P.C afresh in accordance with law and the observations made herein above, by means of a reasoned speaking order, preferably within two months from the date of production of a certified copy of this order after affording opportunity of hearing to both the parties without granting any unnecessary adjournment to either of the parties,

if there is no other legal impediment.

18. The present criminal revision is allowed.

19. There shall be no order as to costs.

October 8, 2025
Sushil/-

(Madan Pal Singh,J.)