



2026:AHC:207777

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7743 of 2025

Dhananjay Patel

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Kamlesh Kumar Singh

Counsel for Opposite Party(s) : Bipin Kumar, G.A., Mohd. Naushad Siddiqui

Court No. - 84

HON'BLE LAKSHMI KANT SHUKLA, J.

1. A rejoinder affidavit has been filed on behalf of the revisionist today in Court. It is taken on record.

2. Heard Mr. Kamlesh Kumar Singh, learned counsel for the revisionist, learned A.G.A. representing the opposite party no. 1, Mr. Bipin Kumar, learned counsel for opposite party no. 2 and perused the material available on record.

3. Revisionist Dhananjay Patel has approached this Court by means of present Criminal Revision challenging the impugned judgment and order dated 29.03.2024 passed by the Principal Judge, Family Court, Chandauli (hereinafter referred to as "the Trial Court") in Maintenance Petition No. 203 of 2018, Sonam Patel v. Dhananjay Patel, whereby the Trial Court partly allowed the application under Section 125 Cr.P.C. filed by the opposite party no. 2 and directed the revisionist to pay Rs. 3000/- per month to opposite party no. 2 as maintenance from the date of institution of the application.

4. Aggrieved by the aforesaid order, the present Criminal Revision has been preferred on the ground that the impugned order is not sustainable in the eyes of law and has been passed without due consideration of the material available on record. It is contended that opposite party no. 2 has been living separately from the revisionist without any sufficient or justifiable reason; however, the Trial Court has erred in recording a finding to the contrary and holding that opposite party no. 2 has sufficient reason to live separately from the revisionist. Accordingly, a prayer has been made to allow the present

Criminal Revision and set aside the impugned order.

5. It is submitted by the learned counsel for revisionist that opposite party no. 2 has levelled allegations against the revisionist and his family members alleging that after solemnization of her marriage with the revisionist on 27.04.2018, she came to her matrimonial home. Her matrimonial inmates were not satisfied with the dowry given by her parental family and started demanding an additional dowry in the sum of Rs. 2 lakhs. It is further alleged that the younger brother of the revisionist (Devar) started molesting opposite party no. 2 and when she complained about the same to her mother-in-law, she was also beaten by her.

6. Learned counsel for the revisionist has further submitted that there are material contradictions in the statements of opposite party no. 2 and her father with regard to the amount of dowry demanded and paid. It is pointed out that in the maintenance proceedings, opposite party no. 2 has alleged that her matrimonial inmates were demanding Rs. 2 lakhs as additional dowry. The same version was reiterated by her and her father in their examination-in-chief. However, in his cross-examination, P.W.-2, i.e. the father of opposite party no. 2, stated that he had given a vehicle, Rs. 1 lakh in cash, gold and silver ornaments and household articles in dowry. On the other hand, opposite party no. 2, in her cross-examination, stated that if she had made a statement in a case under Section 376 I.P.C. that Rs. 5 lakhs had been given in dowry, the same would be correct. She further stated that she did not remember having made a statement in the said case that immediately after her *Vidai* to her matrimonial home, her mother-in-law had started beating her on account of a demand for an additional dowry of Rs. 5 lakhs.

7. Learned counsel for the revisionist, therefore, submits that while the father of opposite party no. 2 has stated that Rs. 1 lakh was paid as dowry, opposite party no. 2, in her statement recorded in the proceedings arising out of the case under Section 376 I.P.C., is stated to have deposed that Rs. 5 lakhs had been given as dowry. According to learned counsel, these material inconsistencies regarding the amount of dowry allegedly paid and demanded render the prosecution version doubtful. It is submitted that had any such amount been paid as dowry, opposite party no. 2 and her father would have consistently disclosed the same amount in their respective statements.

8. It is further submitted that opposite party no. 2 has alleged that her

brother-in-law committed rape upon her and in this regard, she lodged a case under Section 376 I.P.C. Learned counsel submits that in her examination-in-chief in the present proceedings, opposite party no. 2 merely stated that from the very beginning of her stay at her matrimonial home, her brother-in-law had been molesting her and that on 05.05.2018, he entered her room and committed rape upon her. However, in the F.I.R. bearing Crime No. 0053 of 2018, registered at Police Station Sahabganj, District Chandauli, it is alleged that her brother-in-law had started molesting her and pressurising her to establish illicit relations with him and, in furtherance thereof, had assaulted her. It is further alleged in the F.I.R. that when she complained about the said conduct to her mother-in-law, she assaulted her and attempted to oust her from her matrimonial home.

9. Learned counsel for the revisionist submits that it is unbelievable that a woman would shield a man accused of committing an offence of rape, particularly when the alleged offence is against a woman belonging to her own family, in the manner alleged by opposite party no. 2.

10. Learned counsel for the revisionist further submits that, after solemnization of the marriage, opposite party no. 2 stayed at her matrimonial home for only a short period of about one week. It is contended that considering the brief period of stay, the allegation that all the aforesaid incidents occurred during that period is highly improbable and does not inspire confidence. Learned counsel, therefore, submits that, in view of the aforesaid circumstances, the finding recorded by the Trial Court that opposite party no. 2 has sufficient reason to live separately from the revisionist is not sustainable in the eyes of law and is liable to be set aside.

11. *Per contra*, learned A.G.A. as well as learned counsel for opposite party no. 2 have vehemently opposed the present revision. Learned counsel for opposite party no. 2 submits that even if the allegation regarding demand of dowry is not found to be established, no conclusive finding with regard to the allegation of rape can be recorded by this Court at this stage, particularly, when proceedings arising out of the case under Section 376 I.P.C. is still pending. It is contended that any observation or findings recorded by this Court on the merits of the said allegation may prejudice or adversely affect the pending proceedings. Learned A.G.A. has, therefore, submitted that in view of the pendency of the aforesaid proceedings, the findings recorded by the Trial Court that opposite party no. 2 has sufficient reason to live

separately from the revisionist does not call for any interference by this Court.

12. So far as the quantum of maintenance is concerned, the Trial Court has awarded a sum of Rs. 3,000/- per month, which cannot by any stretch be said to be excessive so as to warrant interference by this Court. On the contrary, the aforesaid amount of Rs. 3,000/- per month can hardly be considered sufficient even to meet the basic necessities of opposite party no. 2. It is, therefore, contended that no ground for interference is made out and the present Criminal Revision is liable to be dismissed.

13. Having heard the rival submissions advanced by learned counsel for the parties and upon perusal of the record, it is evident from the statement of opposite party no. 2, recorded at page 49 of the paper book, that she had been in a relationship with the revisionist and that they had physical relations for about one year prior to their marriage, on account of their mutual love and affection. Thereafter, on 27.04.2018, they solemnized marriage with the consent of their respective families. Following the marriage, opposite party no. 2 went to her matrimonial home through *Vidai* and stayed there for about ten days. She thereafter returned to her parental home on 08.05.2018. According to her allegations, during this brief period of her stay at the matrimonial home, she was subjected to harassment and molestation and was also allegedly subjected to rape by her brother-in-law (*Devar*).

14. No sufficient material or explanation has been brought on record by the revisionist to establish any other compelling reason for opposite party no. 2 to have left the matrimonial home and reside separately. At the same time, this Court is in agreement with the submission advanced by learned counsel for opposite party no. 2 that during the pendency of the proceedings arising out of the offence under Section 376 I.P.C., it would neither be appropriate nor proper for this Court to express any opinion, either in favour of or against the allegations of rape. The said issue is, therefore, left open to be adjudicated by the competent court in accordance with law.

14. Keeping the aforesaid aspect aside and without expressing any opinion on the merits of the allegations under Section 376 I.P.C. pending adjudication, we find no sufficient ground to interfere with the findings recorded by the Trial Court regarding the entitlement of opposite party no. 2 to maintenance. Merely because the revisionist and opposite party no. 2 had

been in a relationship for about one year prior to their marriage, no other reason for their separate living, contrary to the reason disclosed by opposite party no. 2, can be presumed by this Court. The finding of the Trial Court that opposite party no. 2 has sufficient reason to live separately from the revisionist, therefore, does not warrant interference.

15. Accordingly, we do not find any good ground to interfere with the impugned judgment and order. The present Criminal Revision is liable to be dismissed.

16. It is **dismissed**.

October 5, 2026

Brijesh Maurya

(Lakshmi Kant Shukla,J.)