2026:AHC:191011

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION DEFECTIVE No. - 584 of 2026

Santosh

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Rakesh Kumar Yadav
Counsel for Opposite Party(s)	:	Kamlesh Shrama, G.A.

Court No. - 86

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Sri Rakesh Kumar Yadav, learned counsel for the revisionist, Sri Kamlesh Sharma, learned counsel for opposite party nos.2 and 3 and learned A.G.A. for the State.

2. Learned counsel for the revisionist submits that the instant criminal revision has been preferred, along with delay condonation application as there is delay of 155 days in filing the revision, with the relief which has been mentioned in the prayer clause. The relief mentioned in the prayer clause of the revision is delineated below:-

> "It is, therefore, most Respectfully prayed that this Hon'ble Court may graciously be pleased to set aside the ex- party judgment and order dated 09.07.2025 passed by the Additional Principal Judge, Family Court, Azamgarh, whereby application Under Section 125 of Cr.P.C. is partly accepted and revisionist is ordered to pay of Rs. Four Thousand only (Rs. 4000) to Opposite Party No.2, Rs. One Thousand Only (Rs. 1,000) to Opposite Party No.3 till the date of his majority, total Rs. five housand only (Rs. 5000) per month as maintenance from date of application, in Case No.371 of 2021 (Manika Versus Santosh) Under Section 125 Cr.P.C. Police Station-Bardah, District-Azamgarh.
>
> It is further prayed that this Hon'ble Court may graciously be pleased to stay the effect and operation of the ex-party judgment and order dated 09.07.2025 passed by Additional Principal Judge, Family Court, Azamgarh, in the aforesaid Case No.371 of 2021 (Manika Versus Santosh) Under Section125 Cr.P.C., Police Station-Bardah, District-

Azamgarh till the pendency of the present Criminal Revision before this Hon'ble Court."

3. Learned counsel for the revisionist submits that vide ex parte order dated 09.07.2025, the Additional Principal Judge, Family Court, Azamgarh has partly allowed the application under Section 125 Cr.P.C. and has directed the revisionist to pay Rs.4,000/- per month to the wife/opposite party no.2 and Rs.1,000/- per month to the minor son/opposite party no.3, from the date of application i.e. 30.06.2021.

4. Learned counsel for the revisionist further submits that there is provision for filing a recall application before the concerned trial court, under Section 126(2) Cr.P.C./Section 145(2) B.N.S.S, therefore, an appropriate application shall be filed before the appropriate forum, therefore, the present revision may be permitted to withdraw the same with liberty.

5. Per contra, learned A.G.A. submits that an efficacious statutory remedy is available to the revisionist under Section 126(2) Cr.P.C./Section 145(2) B.N.S.S. by filing an application before the learned trial court for recalling the ex parte order. It is, therefore, submitted that the present revision is not maintainable and is liable to be dismissed on the ground of availability of an alternative statutory remedy.

6. Learned A.G.A. further submits that this Court in Criminal Revision Defective No.141 of 2026 **(Anup Kumar Vs. Smt. Pratibha Kushwaha and others)**, decided on 30.03.2026, and in Criminal Revision No.2099 of 206 **(Abhishek Gond vs. State of U.P. and others), decided on** 01.04.2026, has held that where an ex parte order has been passed under Section 125 Cr.P.C., the statutory remedy available to the aggrieved party is to move an application under Section 126(2) Cr.P.C./Section 145(2) BNSS before the court concerned.

7. In view of above submission of learned counsel for the revisionist and also in view of the fact that the reason shown for delay of 155 days in filing the revision in the supporting affidavit is not found sufficient, the delay condonation application stands dismissed, and accordingly, this revision is dismissed being barred by limitation as well as on the ground

of alternative remedy with liberty to the revisionist to move an appropriate application under Section 126(2) Cr.P.C./Section 145(2) B.N.S.S. before the competent court for recall of the ex parte order.

September 11, 2026
SFH

(Praveen Kumar Giri,J.)

Digitally signed by :-
SYED FAHIM HUSAIN
High Court of Judicature at Allahabad