



2026:AHC:187766

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5341 of 2025

Seema

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Chandra Prakash Misra
Counsel for Opposite Party(s)	:	G.A., Rajnish Kumar Shahi

Court No. - 87

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Heard Mr. Chandra Prakash Misra, learned counsel for revisionist, Mr. Rajnish Kumar Shahi, learned counsel for opposite party no. 2, learned AGA representing State-opposite party no. 1 and perused the record.

2. Revisionist Seema has approached this Court by means of present criminal revision assailing the impugned judgment and order dated 21.06.2025 passed by Principal Judge, Family Court, Kushinagar at Padrauna (hereinafter referred to as trial court) in Criminal Misc. Case No. 1173 of 2022, CNR No. UPKU020018842022 (Seema Vs. Mukesh Soni) filed under section 125 Cr.P.C. wherein the trial court has rejected the claim of maintenance of revisionist holding that the revisionist is not legally wedded wife of opposite party no. 2.

3. Feeling aggrieved from that order the present criminal revision has been filed on the ground that the impugned order is illegal, unjust and passed in violation of principle of natural justice and a prayer for allowing the present criminal revision and setting aside the impugned judgment and order has been made.

4. Apart from aforesaid grounds so many things has been mentioned as grounds for revision but such things are not relevant for deciding the revision. Accordingly those factual assertion are not being discussed here.

5. Learned counsel for the revisionist submits that the trial court has rejected the claim for maintenance only on the ground that the revisionist was previously married to another person and her previous marriage was

subsisting. On the aforesaid premise, the trial court has held that the relationship between the revisionist and opposite party no. 2 cannot be regarded as a valid marriage so the revisionist is not entitled to claim maintenance from opposite party no. 2. It is further submitted that the findings recorded by the trial court are contradictory one. On the one hand, the trial court has held that the revisionist is not the legally wedded wife of opposite party no. 2, while on the other hand, it has recorded a finding that the revisionist is living separately from opposite party no. 2 without any sufficient reason. It is, thus, contended that, in view of the aforesaid contradictory findings, the impugned judgment and order is not sustainable in law and is liable to be set aside.

6. Learned counsel for revisionist placed reliance upon judgment of Hon'ble Supreme Court in the case of **Smt. N. Usha Rani and another Vs. Moodudula Srinivas 2025 INSC 129**. Paragraph 15 and 16 of aforesaid judgment specifically relied upon by learned counsel for revisionist which are reproduced hereunder:-

"15. This divergence in judicial opinion has been noted by the Court in Chanmuniya (supra) and therefore the question of whether women in live-in relationships can claim maintenance u/s 125 CrPC was referred to a larger bench. The discussion, to the extent relevant, is reproduced below:

"24. Thus, in those cases where a man, who lived with a woman for a long time and even though they may not have undergone legal necessities of a valid marriage, should be made liable to pay the woman maintenance if he deserts her. The man should not be allowed to benefit from the legal loopholes by enjoying the advantages of a de facto marriage without undertaking the duties and obligations. Any other interpretation would lead the woman to vagrancy and destitution, which the provision of maintenance in Section 125 is meant to prevent.

25. The Committee on Reforms of Criminal Justice System, headed by Dr. Justice V.S. Malimath, in its Report of 2003 opined that evidence regarding a man

and woman living together for a reasonably long period should be sufficient to draw the presumption that the marriage was performed according to the customary rites of the parties. Thus, it recommended that the word "wife" in [Section 125](#) CrPC should be amended to include a woman who was living with the man like his wife for a reasonably long period...

42. We are of the opinion that a broad and expansive interpretation should be given to the term "wife" to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time, and strict proof of marriage should not be a precondition for maintenance under Section 125 CrPC, so as to fulfil the true spirit and essence of the beneficial provision of maintenance under Section 125. We also believe that such an interpretation would be a just application of the principles enshrined in the Preamble to our Constitution, namely, social justice and upholding the dignity of the individual."

16. Most recently, in [Badshah Vs. Urmila Badshah Godse and Another](#) (2014) 1 SCC 188, this Court granted maintenance to a second wife who was kept in the dark about her husband's first subsisting marriage. The Court noted:

"13.3. Thirdly, in such cases, purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve "social justice" which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It

specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society."

7. During the course of arguments, learned counsel for the revisionist fairly admitted that the marriage of the revisionist with opposite party no. 2 was her second marriage. It was further submitted that the revisionist had separated from her first husband by mutual consent and a memo in this regard had been arrived at between the revisionist and her first husband so the first marriage of the revisionist does not subsist, and her marriage with opposite party no. 2 cannot be held to be invalid on the ground that it was a second marriage. It is, thus, contended that, in view of above, the present criminal revision deserves to be allowed by this Court and the impugned judgment and order is liable to be set aside.

8. Per contra, learned A.G.A., as well as learned counsel appearing on behalf of opposite party no. 2, vehemently opposed the present criminal revision and submitted that it is an admitted position that the revisionist had earlier married another person and her earlier marriage was never dissolved by a competent court of law. It is further submitted that no decree of divorce was obtained by the revisionist in respect of her first marriage. Learned counsel further submits that, under the provisions of the Hindu Marriage Act, 1955, if a Hindu, during the subsistence of his or her earlier marriage, contracts a second marriage without obtaining a decree of divorce from the competent court, such subsequent marriage is void in view of Section 11 read with Section 5(i) of the said Act. Accordingly, the marriage of the revisionist with opposite party no. 2 is a void marriage, and no legal right to either spouse of void marriage takes birth against each other. So far as the law referred by learned counsel for the revisionist is concerned, it is submitted that paragraphs 15 and 16 of the aforesaid judgment nowhere provides that a lady whose earlier marriage is subsisting married with another person and claimed maintenance from her second husband may be regarded.

9. When confronted with above learned counsel fore revisionist could not overcome the same.

10. Having heard the rival submissions of learned counsel for the parties and upon perusal of the record, we are of the considered view that, though the revisionist had already married with another person and her earlier marriage subsists it cannot be said that she was under any pretense regarding her marital status. It is trite law that no person can be permitted to take advantage of his or her own fault. In the present case, it was the revisionist who, despite the subsistence of her earlier marriage, choose to marry and make a relationship with opposite party no. 2 so she must face its result on her own. In such circumstances, we do not find any good or sufficient ground warranting interference with the impugned judgment and order.

11. Accordingly, the present criminal revision is devoid of merit and is hereby **dismissed**.

September 9, 2026

Arti

(Lakshmi Kant Shukla,J.)