2026:AHC:211619

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7292 of 2025

Gaurav Sachan

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Sharique Ahmed
Counsel for Opposite Party(s)	:	Achint Ranjan Singh, G.A., Ramesh Singh

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Court No. - 84

HON'BLE LAKSHMI KANT SHUKLA, J.

1. Heard Mr. Sharique Ahmed, learned counsel for the revisionist, Mr. Ramesh Singh, learned counsel for opposite party nos. 2&3, learned A.G.A. representing the State and perused the record.

2. Revisionist Gaurav Sachan has approached this Court by means of present Criminal Revision challenging the impugned order dated 06.09.2025, passed by the Principal Judge, Family Court, Kanpur Dehat (hereinafter referred to as "the Trial Court") in Case No. 417 of 2019, Smt. Akanksha Sachan and another v. Gaurav Sachan, under Section 125 Cr.P.C., whereby the Trial Court partly allowed the application under Section 125 Cr.P.C. filed by the opposite party no. 2 and ordered the revisionist to pay maintenance of Rs. 5000/- per month to opposite party no. 2 and Rs. 5000/- per month to opposite party no. 3, parties' minor child from the date of application.

3. Feeling aggrieved by the aforesaid order, the revisionist has preferred the present criminal revision on the ground that the impugned order has been passed in a mechanical manner and is patently illegal. Accordingly, a prayer has been made for setting aside the impugned order.

4. Learned counsel for the revisionist submitted that according to the pleadings of opposite party no. 2, the marriage between the revisionist and opposite party no. 2 was solemnized in accordance with Arya Samaj rites and rituals pursuant to a

conspiracy allegedly hatched by the revisionist's father, who had demanded dowry of Rs. 10 lakhs prior to the marriage and after receiving Rs. 8 lakhs as dowry, exerted pressure to solemnize the marriage in accordance with the procedure prescribed by the Arya Samaj. However, the actual facts are that the marriage between the revisionist and opposite party no. 2 was a love marriage, which was not acceptable to the family members of opposite party no. 2. Learned counsel for the revisionist further submitted that within two days of the solemnization of the marriage in accordance with Arya Samaj rites and rituals, opposite party no. 2 herself filed Writ C No. 29048 of 2013 before this Court, seeking protection. The said writ petition was allowed vide order dated 23.05.2013 and an order was passed restraining interference with the matrimonial life of the parties.

5. It is, therefore, contended that the aforesaid proceedings demonstrate that the marriage between the revisionist and opposite party no. 2 was a love marriage and that the allegations regarding the demand for dowry prior to the marriage and the harassment allegedly perpetrated in connection therewith are false. Accordingly, it is submitted that opposite party no. 2 has founded her claim petition on false and baseless allegations of dowry demand and consequential harassment.

6. Learned counsel for the revisionist further submitted that after the solemnization of the marriage, certain physical complications were detected in opposite party no. 2 rendering her incapable of conceiving a child. It is contended that the revisionist's family arranged for her medical treatment and incurred substantial expenditure in that regard. Opposite party no. 2 has also admitted this fact that her medical treatment was undertaken by her matrimonial family. In support of this submission, learned counsel referred to the statement of opposite party no. 2 recorded at page 131 of the paper book, wherein she is stated to have admitted the aforesaid fact. It is thus contended that on the one hand, the revisionist and opposite party no. 2 had jointly approached this Court seeking protection from the family members of opposite party no. 2, who were allegedly opposed to their marriage and on the other hand, allegations have been levelled regarding a demand for

dowry and harassment in connection therewith. According to learned counsel, had any demand for dowry been made or fulfilled at the time of marriage, the circumstances surrounding the parties' conduct would have been materially different. It is further argued that had the revisionist's parents been motivated by greed for dowry, they would not have undertaken the responsibility of arranging and financing the medical treatment of opposite party no. 2. On the basis of these circumstances, learned counsel contends that the allegations of dowry demand and the harassment in pursuance thereof are wholly unfounded.

7. Learned counsel for the revisionist further submitted that on the one hand, opposite party no. 2 has pleaded that on 21.08.2017, upon learning about the alleged misbehaviour of the revisionist and his family members towards her, her father went to the residence of the revisionist, where he was allegedly assaulted in connection with a dispute relating to dowry. Thereafter, the father of opposite party no. 2 moved an application at Police Station Kotwali, Unnao. It is further alleged that the local police intervened in the matter and exerted pressure upon opposite party no. 2 and her father to execute a *Supurdiginama*. It was only after the execution of the aforesaid document that the revisionist permitted opposite party no. 2 to accompany her father. However, in the said *Supurdiginama,* her father recorded that he was taking his daughter with him of his own free will. Although, in his statement, the father of opposite party no. 2 admitted having executed the aforesaid *Supurdiginama,* he claimed that the same had been executed under pressure from the local police. During the course of arguments, learned counsel appearing for opposite party no. 2 made a statement of single sentence that the revisionist was not sending opposite party no. 2 with her father.

8. According to learned counsel for the revisionist, the aforesaid submission corroborates the revisionist's case that he was unwilling to permit his wife and their newly born child to go to her parental home, whereas opposite party no. 2 was adamant to go there. It is, therefore, contended that the actual reason for the parties living separately was the aforesaid disagreement and not any alleged demand for dowry or harassment on the part of the revisionist or his family

members. It is thus contended that opposite party no. 2 is living separately from the revisionist without any sufficient or justifiable reason. Learned counsel submitted that in the absence of sufficient cause for living separately from her husband, opposite party no. 2 would not be entitled to claim maintenance under Section 125 Cr.P.C.

9. On the aforesaid grounds, learned counsel for the revisionist prayed that the present criminal revision be allowed and the impugned order be set aside.

10. Per contra, learned A.G.A. as well as learned counsel for opposite party no. 2 vehemently opposed the criminal revision and submitted that the aforesaid *Supurdiginama* had been got scribed by the father of opposite party no. 2 under pressure from the local police, allegedly acting under the influence of the revisionist and his family members. It is, therefore, contended that the submissions advanced by learned counsel for the revisionist in this regard are untenable and that opposite party no. 2 has sufficient and justifiable grounds to live separately from the revisionist. Accordingly, it is prayed that the present criminal revision be dismissed.

11. Having heard the rival submissions and upon perusal of the record, this Court finds that the reason assigned by opposite party no. 2 for living separately from the revisionist is the alleged demand for dowry and the harassment purportedly perpetrated in connection therewith. However, the said allegations could not be established by opposite party no. 2. The Trial Court itself did not accept the aforesaid ground as a basis for her separate living. No other ground has been advanced by opposite party no. 2 to establish that she had sufficient reason to live separately from the revisionist. The Trial Court, in its judgment, observed as under:

> "इस प्रकार उपरोक्त सम्पूर्ण विवेचना के आधार पर न्यायालय का निष्कर्ष यह है कि पक्षकारों के मध्य संपादित विवाह दहेज रहित प्रेम विवाह था जिससे पक्षकारों के परिजन संतुष्ट नहीं थे। कालांतर में पक्षकारों के बीच गहन मतभेद के कारण प्रार्थिनी दिनांक 12.02.2018 से विपक्षी से पृथक रह रही है। यद्यपि दोनों पक्षकारों के मध्य मतभेद किस तथ्य को लेकर हुआ यह पूरी तरह स्पष्ट नहीं है परंतु विपक्षी द्वारा पूरी तरह से प्रार्थिनी को अपने साथ रखने से इंकार

> कर दिया है जो न्यायालय के इस निष्कर्ष को बल देता है कि प्रार्थिनी पर्याप्त कारणों के आधार पर विपक्षी से अलग रह रही है। अतंतः यह कि विपक्षी पूर्णतया स्वस्थ व्यक्ति है जो कि अपनी जीवकोपार्जन की क्षमता एवं संसाधन रखता है तथा न्यायालय के समक्ष उसके द्वारा अपनी आय के संबंध में प्रस्तुत प्रपत्र अथवा अभिकथन न्यायालय की दृष्टि में तर्कसंगत नहीं है। ऐसी स्थिति में न्यायालय की राय में प्रार्थिनी क्रमांक 1 तथा 2 दोनों को पाँच-पाँच हजार रुपये बतौर भरण-पोषण वाद प्रस्तुत करने की तिथि से दिलाया जाना न्यायोचित प्रतीत होता है। यहाँ यह उल्लेखनीय है कि यदि विपक्षी द्वारा कोई भी धनराशि बतौर अंतरिम भरण-पोषण पूर्व में अदा की गयी है या किसी अन्य मुकदमें में अदा की जा रही है तो यह इस धनराशि में समायोजित किये जाने योग्य है।"

12. The aforesaid observation and findings recorded by the Trial Court appear to be highly hypothetical in nature. A Court cannot sustain a judicial findings merely on the basis of conjectures and hypothetical assumptions, without adequate support from the evidence available on record. The grounds asserted by opposite party no. 2 as justification for living separately from the revisionist do not appear to be consistent with the facts established before the Trial Court.

13. In view of the discussions made hereinabove, this Court finds merit in the submissions advanced by learned counsel for the revisionist that opposite party no. 2 is living separately from the revisionist without sufficient reason. Under Section 125 Cr.P.C., a wife who refuses to live with her husband without sufficient reason is not entitled to claim maintenance, subject to the statutory conditions and exceptions applicable to the case.

14. As discussed above, although opposite party no. 2 (wife) is living separately from the revisionist without sufficient reason and, therefore, has been held to be not entitled to get maintenance, the child (opposite party no. 3) born out of their wedlock cannot be deprived of maintenance or left to suffer destitution or vagrancy on account of the differences between his parents.

15. Accordingly, the present criminal revision stands **partly allowed**. The impugned judgment and order dated 06.09.2025 passed by the Trial Court is hereby **set aside to the extent it awards maintenance to opposite party no. 2 only.** The rest

part of the order, i.e. awarding maintenance to parties' minor child (opposite party no. 3) shall remain intact and the revisionist shall continue to pay regular monthly maintenance amount of Rs. 5000/- fixed by the Trial Court.

October 8, 2026
Brijesh Maurya

(Lakshmi Kant Shukla,J.)

Digitally signed by :-
BRIJESH KUMAR
High Court of Judicature at Allahabad