



2026:AHC:102475

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5366 of 2024

Ramchandra

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Pawankumar Dubey
Counsel for Opposite Party(s)	:	G.A., Manoj Kumar Gupta

Court No. - 88

HON'BLE ACHAL SACHDEV, J.

1. Heard Shri Pawan Kumar Dubey, learned counsel for the revisionist, learned A.G.A. for the State and Shri Manoj Kumar Gupta, learned counsel for the opposite party no.2.

2. The pleadings have been exchanged between the parties, hence the final order is being passed by this Court.

3. The present Criminal Revision under Section 397/401 Cr.P.C. has been filed to set aside the Judgment and Order dated 20.08.2024 passed by Additional Principal Judge, Family Court, Shahjahanpur in Criminal Case No.184 of 2019 (Smt. Sushila Devi Vs. Ramchandra), under Section 125 Cr.P.C., P.S. Sadar Bazar, District Shahjahanpur.

4. Brief facts of the case are that the application under Section 125 Cr.P.C. of the present case was filed by the opposite party no.2 against the revisionist with the allegation that her marriage was solemnized with the revisionist about 32 years before and she is second wife of the revisionist and from the wedlock of first marriage of the revisionist, he has two children namely Dharmendra Mohan Madhukar and Poonam Bharti and from the wedlock of his second marriage with opposite party no.2, he has also two children namely Surendra Mohan Madhukar and Priyanka Bharti. She is continuing her matrimonial duties but from several years, revisionist has harassed her mentally and physically and the revisionist and his son Dharmendra Mohan Madhukar (born from his first wife/marriage) by way of conspiracy wanted to evict her and his son Surendra Mohan Madhukar. Due to this reason, she was started living with his son Surendra Mohan Madhukar while revisionist retired from Ganna Shodh Parishad, Shahjananpur from the post of Accountant and was receiving pension about Rs.20,000/- and earned

about Rs.10,000/- from farming but he did not maintain her.

5. After filing of the application under Section 125 Cr.P.C., trial was commenced and during trial, prosecution examined three witnesses and after recording the evidence of prosecution witnesses, the the revisionist was himself recorded as D.W.-1 and after considering the entire evidence available on record, vide order dated 20.08.2024 learned trial court awarded maintenance to the opposite party no.2 of Rs.2,000/- per month from the date of application and Rs.6,000/- from the date of order.

6. Being aggrieved with the impugned order dated 20.08.2024, revisionist Ramchandra has approached this Court by way of filing the present revision.

7. Learned counsel for revisionist submitted that the findings recorded by trial court while passing the impugned order dated 20.08.2024 are against law and perverse and trial court wrongly allowed the application under Section 125 Cr.P.C. and therefore, the impugned judgment and order dated 20.08.2024 passed by trial court is liable to be set aside and is revisable in nature.

8. Learned counsel for the revisionist submitted that revisionist is 81 years of age and recovery warrant has been issued against him; he is suffering from several age related ailments; he is already paying interim maintenance @ Rs. 2,000/- per month on regular basis to opposite party no.2. He further submitted that the opposite party no.2 is second wife of the revisionist and from the wedlock of first marriage of the revisionist, he has two children namely Dharmendra Mohan Madhukar and Poonam Bharti and from the wedlock of his second marriage with opposite party no.2, he has also two children namely Surendra Mohan Madhukar and Priyanka Bharti and opposite party no.2 without any rhyme and reasons deserted the revisionist and was living with her son Surendra Mohan Madhukar for last about eleven years at his house while revisionist has retired in the year 2003 from Ganna Shodh Parishad, Shahjanaanpur from the post of Accountant and was getting pension about Rs.15,000/- per month and out of which, he spent Rs.10,000/- per month on his old age ailments and rest goes to other expenses as such, revisionist is not in a position to pay a sum of Rs.6,000/- per month to the opposite party no.2 for maintaining her.

9. He further submits that the son opposite party no.2 Surendra Mohan Madhukar is a Head Master, with whom she is living and is withdrawing Rs.50,000/- per month in the form of salary, therefore, he has enough resource to maintain her mother.

10. He further submits that trial court failed to consider above aspects and has been wrongly awarded maintenance to the opposite party no.2 of Rs.2,000/- per month from the date of application and Rs.6,000/- from the date of order by allowing application under Section 125 Cr.P.C.

11. Learned counsel for the opposite party no.2 submitted that power of revisional court is very limited and revisional court cannot appreciate the evidence on record, like appellate court and as after considering the entire material available on record, trial court awarded maintenance to the opposite party no.2 of Rs.2,000/- per month from the date of application and Rs.6,000/- from the date of order by allowing application under Section 125 Cr.P.C., therefore, in the instant revision this court should not disturb the concurrent finding of facts recorded by the trial court.

12. He further submitted that the revisionist has filed a suit for divorce before the family court and has also filed a suit for declaration regarding ending of relationship with opposite party no.2 and the revisionist has never made an effort to keep the opposite party no.2 with him and he has himself admitted that she was living separately about 10-12 years and in his cross-examination, he has stated that he has retired in the year 2003 from Ganna Shodh Parishad, Shahjahanpur from the post of Accountant and was getting pension about Rs.15,000/- per month and he has four children (two from first marriage and two from second marriage i.e. from opposite party no.2) and it is his responsibility to maintain them and he could not escape from the same by stating that the son opposite party no.2 Surendra Mohan Madhukar is a Head Master, with whom she is living and is withdrawing Rs.50,000/- per month in the form of salary, therefore, he has enough resource to maintain her mother.

13. He has further submitted that the revisionist has accepted in his defence that he has a house in Indira Colony and has five bigha agricultural land and has a plot, which was sold by his daughter Poonam Bharti (from first marriage) and at the time of retirement his salary was Rs.5,000/- and now getting Rs.15,000/- per month as a pension and he has earning of Rs.2,000/- from agricultural land. He further admitted the fact that he has 17-18 bigha agricultural land in Shahjahanpur and the same was executed in favour of his elder son (from first marriage) without taking any money from him, therefore instant revision filed by the revisionist is devoid of merit and is liable to be dismissed.

14. He however could not dispute the fact that if finding recorded by the trial court is perverse then in revision this Court can interfere. However, he further submitted that from the record, it could not be reflected that finding

recorded by the trial court was perverse and was against the evidence available on record.

15. I have heard both the parties and perused the record of the case.

16. This Court finds merit in the submission advanced by learned counsel for the opposite party no.2 that in revision this Court cannot appreciate the evidence available on record like appellate court and power of this Court in revisional jurisdiction is limited and this Court can interfere only if findings recorded by the trial court are perverse and against the record, therefore, in the instant revision it is to be seen, whether while allowing application under Section 125 Cr.P.C. of opposite party no.2 finding of the trial court was perverse and against the record and has failed to consider this fact.

17. From the record, it reflects that revisionist is having enough resource to look after his wife but he failed to do so. Further, it goes to show that the revisionist deliberately transferred his agricultural land in the name of his son (from the first marriage) only to deprive the opposite party no.2 and his son Surendra Mohan Madhukar, therefore, it is reflected that finding recorded by the trial court was having no perversity and was not against the evidence available on record.

18. Therefore, from the discussion made above, in view of this Court, the impugned order passed by trial court is having no perversity and as such, the instant criminal revision is liable to be dismissed.

19. Accordingly, this criminal revision is **dismissed**.

20. Let a certified copy of this order/judgment be transmitted forthwith for necessary action.

May 5, 2026
Zafar

(Achal Sachdev,J.)