



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5692 of 2025

Amarjeet

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Revisionist(s)	: Jitendra Kumar
Counsel for Opposite Party(s)	: G.A., Rajesh Kumar

Reserved on 24.04.2026

Delivered on 17.06.2026

Court No. - 46

HON'BLE GARIMA PRASHAD, J.

1. Heard Sri Jitendra Kumar, learned counsel for the revisionist, Sri Rajesh Kumar, learned counsel appearing for the opposite party no.2 and learned A.G.A. for the State.

2. By means of the present criminal revision, the revisionist has challenged the judgment and order dated 08.08.2025 passed by the Additional Principal Judge, Family Court, Ghaziabad in Criminal Misc. Case No.84 of 2020 (Smt. Hemlata Vs. Amarjeet), under Section 125 Cr.P.C., Police Station Vijay Nagar, District Ghaziabad, whereby the application filed by opposite party no.2 under Section 125 Cr.P.C. has been allowed and maintenance of Rs.5,000/- per month has been awarded in her favour along with payment of arrears in installments.

3. Learned counsel for the revisionist submits that the impugned judgment suffers from illegality and is based upon conjectures and surmises. It is contended that opposite party no.2 had voluntarily left the matrimonial home and had been residing separately for several years without any sufficient cause. It is further submitted that the revisionist is

merely a labourer, has no permanent source of income, is suffering from ailments and is burdened with the responsibility of maintaining his children, second wife and aged mother. It is also argued that opposite party no.2 is earning independently and is therefore not entitled to maintenance. Certain allegations regarding her conduct have also been levelled by the revisionist.

4. *Per contra*, learned counsel appearing for opposite party no.2 has supported the impugned judgment and submits that the Family Court, upon due consideration of the evidence available on record, has rightly concluded that opposite party no.2 was compelled to reside separately on account of the conduct of the revisionist and that she has no sufficient means to maintain herself.

5. The relationship of husband and wife between the parties is undisputed. It is also not in dispute that the marriage was solemnized on 17.06.2003 according to Hindu rites and customs and that three children were born out of the wedlock. The principal questions which arise for consideration are whether opposite party no.2 was residing separately without sufficient cause and whether the maintenance awarded by the Family Court warrants interference in exercise of revisional jurisdiction.

6. The record reveals that opposite party no.2 alleged persistent harassment and cruelty on account of dowry demands and further alleged that she was ultimately compelled to leave the matrimonial home. The Family Court, after considering the oral testimony adduced by the parties, accepted the version of opposite party no.2 and recorded a finding that she was residing separately for sufficient and justified reasons. The revisionist, on the other hand, attempted to attribute the separation to the alleged conduct of opposite party no.2 and claimed that she had voluntarily left the matrimonial home. However, apart from making allegations, no convincing evidence was brought on record to substantiate such a plea.

7. The burden to establish that the wife had withdrawn from the society of her husband without sufficient reason was upon the husband. The

Family Court has noticed that no reliable documentary evidence or independent testimony was produced by the revisionist in support of the allegations levelled against opposite party no.2. The findings recorded by the Family Court on this aspect are findings of fact based upon appreciation of evidence and no perversity therein has been demonstrated before this Court.

8. The contention that opposite party no.2 is capable of maintaining herself also does not merit acceptance. The evidence on record indicates that she occasionally undertakes contractual work and earns a small amount which is insufficient for her sustenance. The Family Court has rightly observed that such meagre earnings cannot be treated as a ground to deny maintenance.

9. In *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316*, the Hon'ble Supreme Court held that the expression "unable to maintain herself" does not mean that the wife must be absolutely destitute before claiming maintenance. The object of Section 125 Cr.P.C. is to prevent destitution and vagrancy and to provide social justice to a neglected wife. Likewise, in *Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353*, the Supreme Court observed that the purpose of maintenance proceedings is to ensure that a wife is able to live with dignity and is not reduced to a life of deprivation.

10. The revisionist has also sought to deny maintenance by alleging misconduct and illicit relations on the part of opposite party no.2. The Family Court has recorded that no cogent evidence whatsoever was adduced to establish either remarriage of opposite party no.2 or her living in adultery. Mere allegations, however serious, cannot take the place of proof. In the absence of acceptable evidence, the Family Court rightly declined to act upon such allegations.

11. So far as the financial capacity of the revisionist is concerned, the Family Court has noticed material inconsistencies in his own stand. While claiming to be a labourer earning a meagre income, the revisionist simultaneously disclosed activities relating to agricultural land, mining

contracts and rental use of a tractor. The Family Court therefore found it unsafe to accept the income disclosed by the revisionist at face value.

12. The Family Court ultimately assessed the income of the revisionist on a conservative basis and determined the same at approximately Rs.18,000/- per month by taking into account his earning capacity as an able-bodied person. The Court also considered his obligation towards other family members and thereafter awarded maintenance of only Rs.5,000/- per month to opposite party no.2.

13. In *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*, the Hon'ble Supreme Court observed that an able-bodied husband cannot evade his statutory obligation to maintain his wife and that maintenance must be awarded in a manner that enables the wife to live with dignity. Tested on the aforesaid principles, the amount awarded by the Family Court cannot be said to be excessive, arbitrary or disproportionate.

14. It is well settled that the revisional court does not sit as a court of appeal. Re-appreciation of evidence is not warranted unless the findings recorded by the court below are shown to be perverse, wholly unreasonable or suffering from manifest illegality. The findings recorded by the Family Court in the present case are based upon evidence available on record and are neither perverse nor contrary to law.

15. Upon consideration of the entire material available on record, this Court finds that the Family Court has correctly appreciated the evidence and applied the settled principles governing proceedings under Section 125 Cr.P.C. No jurisdictional error, perversity or material irregularity has been shown so as to warrant interference by this Court in exercise of revisional jurisdiction.

16. Consequently, the criminal revision lacks merit and is accordingly dismissed.

(Garima Prashad,J.)

June 17, 2026

Sachin Mishra