



2026:AHC:54800

**HIGH COURT OF JUDICATURE AT ALLAHABAD**  
**CRIMINAL REVISION No. - 260 of 2026**

Mohd Saddam

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite Party(s)

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| Counsel for Revisionist(s)    | : Sharad Srivastava |
| Counsel for Opposite Party(s) | : G.A.              |

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**In Chamber**

**Reserved on 26.02.2026**  
**Delivered on 18.03.2026**

**HON'BLE GARIMA PRASHAD, J.**

1. Heard Sri Sharad Srivastava, learned counsel for the revisionist and learned A.G.A. for the State.
2. The present criminal revision has been filed assailing the judgment and order dated 14.10.2020 passed by the learned Additional Principal Judge, Family Court, Court No. 2, Mau in Case No. 86 of 2017 (Afsana vs. Mohd. Saddam) under Section 125 of the Code of Criminal Procedure, Police Station Sarai Lakhansi, District Mau, whereby the learned Family Court has awarded maintenance to opposite party No.2.
3. The brief facts giving rise to the present revision are that the marriage between the revisionist and opposite party No.2 was solemnized on 07.06.2015 in accordance with Muslim rites and customs. Subsequently, opposite party No.2 instituted a petition

under Section 125 Cr.P.C., registered as Case No. 86 of 2017, claiming maintenance of Rs.10,000/- per month. The petition was filed on 17.02.2017.

4. It was alleged in the petition that at the time of marriage her father had given dowry articles and jewellery according to his capacity. However, after the marriage, the revisionist and his family members allegedly expressed dissatisfaction regarding the dowry and demanded Rs.2,00,000/- and a power loom, and on account of such demand she was subjected to cruelty and harassment. According to her, she was sent to her parental home by the revisionist.

5. It was further alleged that on 20.11.2016, pursuant to a village settlement, she was brought back to her matrimonial home where she stayed for about two months. During this period also she was allegedly subjected to harassment and cruelty for dowry and her stridhan was retained by the revisionist and his family members. On 24.01.2017, she was allegedly driven out of the matrimonial home. It was further alleged that a panchayat was convened on 25.01.2017, wherein the revisionist refused to keep her as his wife and threatened to remarry. A complaint was also allegedly made before the police but no action was taken.

6. It was further pleaded that the opposite party No.2 had no independent source of income and her father was financially incapable of maintaining her. According to her, the revisionist owned five power looms and earned more than Rs.30,000/- per month, and therefore she claimed maintenance of Rs.10,000/- per month.

7. The revisionist contested the petition by filing a written statement denying the allegations made by the opposite party No.2. It was stated that the opposite party No.2 stayed in the matrimonial home

only for about four days after marriage and thereafter for a brief period of about two months, and that during the said period she frequently quarrelled with the revisionist and his family members and insisted that he should live separately from his aged parents. It was also alleged that she used to talk to other persons on mobile phone and behaved in an abusive manner.

8. The revisionist denied the allegations relating to dowry demand, cruelty, the alleged panchayat, and the incident dated 24.01.2017. According to him, the opposite party No.2 voluntarily left the matrimonial home and refused to return. It was further contended that the opposite party No.2 is capable of earning by operating a loom and earns about Rs.7,000/- per month, whereas the revisionist himself works as a labourer in a cloth shop earning approximately Rs.5,000/- per month and is the sole earning member responsible for maintaining his aged parents.

9. During the proceedings before the learned Family Court, the opposite party No.2 examined herself as P.W.-1 and filed her affidavit in evidence along with documentary evidence including the Nikahnama. Despite sufficient opportunity granted by the Court, the revisionist neither cross-examined the witness nor produced any defence evidence.

10. Upon consideration of the pleadings and evidence on record, the learned Family Court held that the opposite party No.2 was living separately from the revisionist for sufficient cause. The Court observed that a wife would not ordinarily live separately from her husband for years without justifiable reason and that the revisionist failed to prove that she had left the matrimonial home without cause. The Family Court relied upon the principles laid down in *Siraj Mohammad Khan vs. Hafeezunnisa Yasinkhan (1981) 4 SCC 250* and *Smt. Savitri Pandey vs. District Judge, Family Court,*

*Allahabad*, 2004 SCC OnLine All 167, wherein it has been held that cruelty and dowry harassment constitute sufficient cause for a wife to reside separately.

11. The learned Family Court further recorded that the opposite party No.2 had no independent source of income. The plea taken by the revisionist that she was earning about Rs.7,000/- per month by operating a loom was not supported by any evidence. The Court also observed that the revisionist had taken inconsistent stands regarding his own income. While the wife alleged that he owned several power looms and earned more than Rs.30,000/- per month, the revisionist claimed that he earned only Rs.5,000/- per month as a labourer.

12. Considering the overall circumstances, the learned Family Court assessed the earning capacity of the revisionist to be approximately Rs.10,000/- to Rs.15,000/- per month and awarded maintenance to opposite party No.2 at the rate of Rs.2,000/- per month from the date of restoration of the case, i.e. 28.01.2020, and Rs.3,000/- per month from the date of the impugned order, payable until her lifetime or remarriage, whichever occurs earlier.

13. Learned counsel for the revisionist has challenged the impugned order mainly on the ground that the learned Family Court determined the quantum of maintenance on the basis of surmises and conjectures and without affording proper opportunity to the revisionist. It is also contended that the opposite party No.2 had behaved cruelly with the revisionist and his family members and had left the matrimonial home without sufficient cause. It is further argued that the opposite party No.2 is an earning woman and therefore not entitled to maintenance.

14. Having heard the submissions and upon perusal of the record, this Court finds no such illegality or perversity in the impugned order which may warrant interference in revisional jurisdiction.

15. The marital relationship between the parties is undisputed. The proceedings arise under Section 125 Cr.P.C., which is a social welfare provision intended to prevent destitution and vagrancy. The provision must therefore receive a liberal interpretation in favour of the dependent spouse.

16. On the issue whether the opposite party No.2 was residing separately for sufficient cause, the learned Family Court has recorded a clear finding based upon the unrebutted testimony of the wife that she was subjected to cruelty and dowry harassment. The wife had supported her case through her affidavit and oral statement before the Court. Significantly, despite opportunity, the revisionist neither cross-examined her nor led any defence evidence. Once the testimony of the wife remained unchallenged, the learned Family Court was justified in relying upon the same.

17. The contention of the revisionist that the wife had left the matrimonial home voluntarily is merely a bald allegation unsupported by any evidence. Mere pleading cannot take the place of proof. The findings recorded by the learned Family Court on this issue are therefore well reasoned and based on material available on record.

18. The argument that no formal complaint was filed before the police or any authority also does not advance the case of the revisionist. Filing of a criminal complaint is not a mandatory condition for claiming maintenance under Section 125 Cr.P.C. Many women, due to social and familial pressures, do not immediately initiate criminal proceedings. The absence of such

complaint, therefore, cannot by itself negate the claim of cruelty or sufficient cause for residing separately.

19. The further contention that the opposite party No.2 is an earning lady is also without substance. Except making a bald assertion that she earns about Rs.7,000/- per month, the revisionist has not produced any evidence whatsoever to substantiate the same. No witness has been examined nor any documentary evidence has been placed on record. In the absence of proof, such an allegation cannot be accepted.

20. On the other hand, the learned Family Court has recorded a categorical finding that the opposite party No.2 had no established independent source of income and was dependent upon her parental family. The said finding is based on the evidence on record and does not call for interference.

21. So far as the quantum of maintenance is concerned, the learned Family Court has adopted a balanced and cautious approach. Although the wife had claimed Rs.10,000/- per month, the Court awarded only Rs.2,000/- per month from the date of recall of the ex parte order and Rs.3,000/- per month from the date of the impugned order. In present economic circumstances, such an amount can hardly be said to be excessive; rather it is a modest amount intended merely for basic subsistence.

22. It is also noteworthy that the learned Family Court has not awarded maintenance from the date of filing of the application, but only from the date of restoration of the case, i.e., 28.01.2020, which itself reflects that the Court below exercised restraint and fairness while determining the liability of the revisionist.

23. The plea of the revisionist that he earns only Rs.5,000/- per month and has aged parents to maintain cannot be accepted in the

absence of credible proof. A husband cannot avoid his statutory obligation to maintain his wife merely by making vague assertions of financial hardship. Unless the case falls within the disqualifications contemplated under Section 125(4) Cr.P.C., the obligation to maintain the wife continues.

24. In the present case, no disqualification under Section 125(4) Cr.P.C. has been established. There is no evidence that the wife was living in adultery or that she refused to live with the husband without sufficient cause. Revisional jurisdiction of this Court is limited in scope. Unless the findings recorded by the Court below are perverse, illegal, or based on no evidence, this Court would not ordinarily interfere. The findings recorded by the learned Family Court are based on appreciation of evidence and do not suffer from any manifest illegality.

25. In view of the aforesaid facts and circumstances, this Court finds that the impugned order awarding maintenance to opposite party No.2 is just, reasonable, and does not warrant any interference.

26. Accordingly, the present criminal revision is dismissed.

27. The judgment and order dated 14.10.2020 passed by the learned Additional Principal Judge, Family Court, Court No.2, Mau in Case No. 86 of 2017 is hereby affirmed. The revisionist shall continue to pay the maintenance to opposite party No.2 in terms of the impugned order and shall clear the arrears, if any, in accordance with law.

**(Garima Prashad,J.)**

**March 18, 2026**  
(Sachin Mishra)