



2026:AHC:54054

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1505 of 2025

Randev

.....Revisionist(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Atul Kumar Kushwaha
Counsel for Opposite Party(s)	:	G.A., Ramesh Chandra Pandey, Sarvesh Kumar Dubey

Court No. - 85

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Atul Kumar Kushwaha, learned counsel for the revisionist, Mr. Sarvesh Kumar Dubey, learned counsel for opposite party nos.2 and 3 and the learned A.G.A for the State.

2. This criminal revision has been filed by the revisionist under Section 397/401 Cr.P.C. with a prayer to set aside the impugned judgment and order dated 11th March, 2024 passed by the Additional Principal Judge, Family Court, Court No.1, Muzaffarnagar in Case No. 369/11 of 2021 (Smt. Sanjana & Another Vs. Randev), under Section 125 Cr.P.C., Police Station-Titavi, District-Muzaffarnagar, whereby the trial court while allowing the instant application filed by opposite party nos.2 and 3 under Section 125 Cr.P.C. has directed the revisionist to pay Rs. 3,000/- per month to opposite party no.2 (wife) and Rs. 1,500/- per month to opposite party no.3 (minor daughter) towards monthly maintenance allowance from the date of filing of the instant application.

3. The contention of the learned counsel for the revisionist is that admittedly the marriage of the revisionist has been solemnized with opposite party no.2 on 10th February, 2019 in accordance with the Hindu Rites and Rituals and from the aforesaid wedlock, opposite party no.3, namely, Kumari Nitya has been born. However, just thereafter, the revisionist came to know that after leaving her parental house, opposite party no.2 went along with one Farman on 15/16th May, 2018 and in that regard the father of opposite party no.2 lodged first information report against Farman on 16th May, 2018 which was registered as Case Crime No. 0243 of 2018 under Sections 366 I.P.C. at Police Station-Titavi District Muzaffarnagar. Thereafter the opposite party no.2 solemnized her marriage with Farman and their marriage was got registered on 16th May, 2018. Learned counsel for the revisionist then submits that by

concealing her marriage with Farman and without divorcing him, opposite party no.2 solemnized her second marriage with the revisionist, which is null and void. The learned counsel for the revisionist also submits that it is no doubt true that an application for cancellation of her first marriage certificate dated 16th May, 2018 has been moved by opposite party no.2, which is still pending consideration and she has also moved petition under Sections 11 and 12 of the Hindu Marriage Act and the same is also pending consideration before the trial court. Learned counsel for the revisionist submits that from the aforesaid it is clear that at the present time or before the date of marriage of the revisionist with opposite party no.2 i.e. 10th February, 2019, no decree of divorce regarding her first marriage with Farman has been passed in her favour, therefore, her second marriage with the revisionist, which was solemnized without divorcing her first husband, is per se illegal and *void ab initio*. In these circumstances, in accordance with the law on the subject, the opposite party no.2 is not entitled to get any maintenance allowance from the revisionist as her first marriage with Farman subsists till today because no decree of divorce from Farman has been passed in her favour till date.

4. Learned counsel for the revisionist lastly submits that since opposite party no.3 has been born from the wedlock of the revisionist with opposite party no.2, therefore, the revisionist is ready to pay her maintenance allowance as awarded by the trial court under the impugned judgment.

5. On the above premise, learned counsel for the revisionist prays that since trial court has committed gross error in awarding maintenance allowance in favour of opposite party no.2 under the impugned order, therefore, the same is liable to be set aside/quashed insofar as it pertains to opposite party no.2 only.

6. On the other-hand learned counsel for opposite party no.2 and the learned A.G.A. have opposed the present criminal revision by submitting that there is no illegality or infirmity in the impugned judgment passed by the trial court so as to warrant any interference by this Court in exercise of revisional jurisdiction.

7. On the above premise, learned counsel for opposite party no.2 submits that since the trial court has not committed any error in passing the impugned judgment, the present criminal revision is liable to be dismissed.

8. I have considered the facts and circumstances of the case and the submissions made by the learned counsel for the parties and perused record including the impugned judgment passed by the trial court.

9. When this Court made pointed query to learned counsel for opposite party

no.2 as to whether the submission made by the learned counsel for the revisionist that opposite party no.2 had solemnized her first marriage with Farman and without divorcing her, she has solemnized her second marriage with the revisionist, is correct or not, he could not dispute the same. He submits that due to lack of knowledge of law, opposite party no.2 has solemnized her second marriage with the revisionist before obtaining decree of divorce from her first husband in her favour. He also submits that application of cancellation of her first marriage certificate as well as petition under Sections 11 and 12 of the Hindu Marriage Act have been filed by her and the same are pending consideration before the trial court.

10. From the aforesaid facts and circumstances, this Court finds that it is an admitted position that without obtaining any decree of divorce from her first husband, namely, Farman, which subsists as on today, the opposite party no.2 has solemnized her second marriage with the revisionist. Under such circumstances, this Court is of the considered opinion that the marriage of opposite party no.2 with the revisionist is illegal, as her first marriage subsists as on today and also was existed at the time of her marriage with the revisionist.

11. The Apex Court in the case of Yamnuabai Anantrao Adhav Vs. Anantrao Shivram Adhav & Another reported in (1988) 1 SCC 530, **Bauklabai & Another Vs. Gangaram & Another** reported in (1988) 1 SCC 537 and **Savitaben Somabhai Bhatiya Vs. State of Gujarat** reported in AIR 2005 SC 1809 has held that maintenance is denied to a second wife during the subsistence of the husband's first marriage on a strict interpretation of the term "wife" under Section 125 Cr.P.C..

12. In view of the aforesaid settled legal position of law and also the strict interpretation of the term "wife" under Section 125 Cr.P.C., this Court holds that opposite party no.2 is not entitled to get any maintenance allowance from the revisionist as she is not the legally wedded wife of the revisionist. This Court also holds that since the revisionist has admitted himself that opposite party no.3 has been born from the alleged wedlock of the revisionist with opposite party no.2 and she is his real minor daughter, she is entitled to get maintenance allowance from the revisionist.

13. Consequently, impugned judgment and order dated 11th March, 2024 passed by the Additional Principal Judge, Family Court, Court No.1, Muzaffarnagar in Case No. 369/11 of 2021 (Smt. Sanjana & Another Vs. Randev), under Section 125 Cr.P.C., Police Station-Titavi, District-Muzaffarnagar is quashed qua the opposite party no.2, whereas the said impugned judgment qua opposite party no.3 is affirmed. The revisionist shall

pay maintenance allowance to opposite party no.3 regularly as awarded by the trial court under the impugned judgment.

14. The present criminal revision is, accordingly, **partly allowed.**

15. There shall be no order as to costs.

March 17, 2026
Sushil/-

(Madan Pal Singh,J.)