



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 3622 of 2024

Smt Sushila

.....Revisionist(s)

Versus

Rajiv Kumar Chaudhary

.....Opposite Party(s)

Counsel for Revisionist(s) : Ashish Pandey, Randhir Jain
Counsel for Opposite Party(s) : G.A., Sanjay Kumar Mishra

Court No. - 18

HON'BLE ACHAL SACHDEV, J.

1. Heard Sri Ashish Pandey, learned counsel for the revisionist, learned A.G.A. for the State and Sri Arun Kumar Maurya, Advocate, holding brief of Sri Sanjay Kumar Mishra, learned counsel for the opposite party no. 2.
2. The present revision has been preferred by the revisionist being aggrieved by the judgement and order dated 05.03.2024 passed by Principal Judge, Family Court, Maharajganj in Maintenance Application No. 298 of 2019 (Sushila and Another Vs. Rajiv Kumar) u/s 125 Cr.P.C.
3. The trial court has denied maintenance to the revisionist on the ground that she is not legally wedded wife of opposite party no. 2, Rajiv

solemnized through a court marriage on 21.09.2017, and despite her family providing substantial dowry according to their status, her husband and in-laws soon began harassing her for additional dowry, particularly demanding a four-wheeler. She alleged that on 23.10.2017, she was beaten and expelled from her matrimonial home, after which village elders intervened and she was later taken to Gorakhpur by her husband and out of marital relation, she gave birth to a son, but her husband, father-in-law Achhevar, mother-in-law Koila Devi, brother-in-law Gautam, and sister-in-law allegedly continued to mentally and physically torture her. She further alleged that on 19.03.2019, all the accused confined her in a room, assaulted her brutally, attempted to strangle her at the instigation of her mother-in-law, and ultimately drove her out after taking away her stridhan. Since then, she has been residing at her parental home with her child without any financial support from the opposite party. Claiming that she has no independent source of income while her husband earns well as a lab technician at Digvijay Nath Degree College and also has agricultural income.

6. Learned counsel for the revisionist submits that the revisionist has sought maintenance of Rs.25,000/- per month for herself and Rs.15,000/- per month for her minor child through her application u/s 125 Cr.P.C. He next submits that the revisionist is the wife of opposite party no. 2 and that she was beaten and driven away from her matrimonial house on 19.03.2019 and since then, she has been living at her parents' home and is unable to support herself. He further submits that the revisionist's family had provided substantial dowry to the opposite party no. 2 but her husband (opposite party no. 2) and in-laws harassed her for demand of additional dowry.

with him in his Gorakhpur quarters on 21.09.2017. He next submits that after learning of relationship of revisionist and opposite party no. 2, the family of opposite party no. 2 severed ties with him and disowned him, yet he chose to live with the revisionist for her happiness. He further submits that the revisionist never visited or lived with the family of opposite party no. 2 in the village, had no interaction with his parents or relatives, and was never subjected to dowry demands, harassment, or assault by him or his family. He also submits that the revisionist and her family manipulated and pressured opposite party no. 2 into marriage by threatening him into false criminal cases and suicide. He further submits that the relationship of revisionist and opposite party no. 2 was initially cordial but after a few months, the revisionist became quarrelsome, demanded money for expensive items, neglected household responsibilities, and failed to care properly for their son after his birth. He further submits that motivated by his job and property, the revisionist repeatedly threatened him, maintained illicit relationships, and conspired to harm him, prompting him to report the matter to senior police officials. He, therefore, submits that the opposite party no. 2 due to the revisionist's conduct, threats, and the physical and mental harassment he allegedly suffered, he can no longer live with the revisionist and has, therefore, filed a divorce petition to protect his life and well-being.

8. Heard learned counsel for the parties and perused the record.

9. The trial court has framed issue no.1 as to whether the revisionist is legally wedded wife of opposite party no. 2, Rajiv Kumar Chaudhary, and has decided the same against the applicant no.1/revisionist by holding that the burden of proof of proving the fact that the issue is on the applicant no.1 and in support of her case, she has filed the photocopy

aforementioned document, the applicant no.1 resided with opposite party and out of their relationship, applicant no.2 was born and has concluded that applicant no.2 is an illegitimate child of opposite party. The manner in which the issue no.1 has been dealt with, without taking into consideration the fact that even though the applicant no.1 had not succeeded in proving the fact of her marriage to opposite party no. 2 but they were in a relationship as husband and wife for a considerable period of time and out of the relationship, a son was born, while assessing the point of entitlement of maintenance from opposite party no. 2 to the applicant no. 1, goes on to show clear non-application of mind in a cursory manner and mechanical manner and the trial court has not duly applied its mind to the facts, to the evidence that has been filed by the applicant no.1 before the trial court while holding that the applicant no.1 is not a legally wedded wife of opposite party in total ignorance of documentary evidence of birth certificate of applicant no.2 that has been filed by applicant no.1 in support of the fact that applicant no.2 is the son of opposite party.

10. In the present revision, opposite party no. 2 has candidly admitted that he and the applicant/revisionist had applied for a court marriage before the competent Magistrate, though the formal procedure could not be completed. He has further acknowledged the birth of a child from his relationship with the applicant, and that after the applicant was turned out of her matrimonial home by his father, he took her to his government accommodation where they resided together.

11. A perusal of the impugned judgment reveals that these material admissions and surrounding circumstances were not adverted to by the trial court while adjudicating Issue Nos. 1 and 2. The judgment does not

in compliance with the guidelines issued by the Honble Supreme Court in **Rajnesh v. Neha [(2021) 2 SCC 324]**.

12. The Honble Supreme Court in **Badshah v. Urmila Badshah Godse [(2014) 1 SCC 188]** has emphasised the necessity of adopting a purposive and socially contextual approach while dealing with claims under Section 125 Cr.P.C., rather than adhering to a purely adversarial or technical interpretation of the law. It has been held that where a man and a woman have lived together as husband and wife and the relationship is otherwise established, strict proof of a valid marriage should not be insisted upon so as to defeat the beneficial object of the provision.

13. Interference is warranted only where:

- (i) the Magistrate acted without jurisdiction or failed to exercise jurisdiction vested in him;
- (ii) the order is contrary to law or violates statutory provisions;
- (iii) there is serious procedural irregularity affecting fairness;
- (iv) findings are perverse, i.e., based on no evidence;
- (v) material evidence has been ignored or settled principles misapplied, resulting in grave injustice or hardship.

14. The Supreme Court in **Sri M.V. Ramachandrasa (Deceased) through LRs v. Mahendra Watch Company & Ors. [2026 INSC 348]**, while reiterating the principles laid down in **Dattonpant Gopalvarao Devakate v. Vithalrao Maruthirao Janagaval [(1975) 2 SCC 246]** and **Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh [(2014) 9 SCC 78]**, has held that the High Court, while exercising revisional jurisdiction, cannot reassess or re-analyse evidence to arrive at a different conclusion merely because another view is possible

15. In the present case, however, the trial court appears to have decided Issue Nos. 1 and 2 in a mechanical manner, holding that applicant no. 1 is not the wife of opposite party no. 2, but in the same breath declared applicant no. 2 to be the illegitimate child of applicant no. 1 and opposite party no. 2. This finding was recorded without advertent to the admissions of opposite party no. 2 regarding the application for court marriage, the birth of the child, and the parties cohabitation in his government accommodation. The findings are, therefore, devoid of proper application of judicial mind and fail to consider material circumstances having a direct bearing on the determination of applicant no. 1's entitlement to maintenance.

16. By the order impugned, the trial court awarded a sum of Rs. 5,000/- as maintenance to applicant no. 2 on the ground that he is the illegitimate child of opposite party no. 2. Section 125 Cr.P.C. makes it obligatory for a father to maintain his child, whether legitimate or illegitimate, who is unable to maintain himself. Keeping in view the legal mandate contained in Section 125 Cr.P.C., the order of the trial court, insofar as it grants maintenance to applicant no. 2, is affirmed. Moreover, the same has not been challenged by applicant no. 2.

17. Further, where the applicant has merely made oral assertions without producing evidence of the net income of the opposite party, the trial court cannot arrive at a just and reasonable determination of maintenance. In such circumstances, the affidavits of disclosure of income, assets, and liabilities, as mandated in **Rajnesh (supra)**, assume decisive importance. The trial court is duty-bound to direct both parties to file their respective affidavits in the prescribed format, and any failure to comply must be taken adversely against the defaulting party. Once affidavits are filed, the court must base its determination of quantum

court is justified in interfering, setting aside the finding on quantum, and remanding the matter for fresh determination.

18. In view of the foregoing discussion, the impugned judgment dated 05.03.2024 passed by the learned Principal Judge, Family Court, Maharajganj, in Maintenance Case No. 298 of 2019 (Sushila & Another v. Rajiv Kumar), insofar as rejection of claim for maintenance of applicant/revisionist is concerned, cannot be sustained. The findings recorded on Issue Nos. 1 and 2 are vitiated by non-consideration of material admissions and relevant circumstances, and the determination of claim for maintenance of applicant no. 1 is contrary to the binding guidelines laid down in **Rajnesh (supra)** as well as general principles of law relating to admissions of parties and their relevance in court proceedings.

19. This Court finds no perversity or illegality in the impugned order dated 05.03.2024 passed by the trial court in regard to the entitlement of applicant no. 2 (minor child) to maintenance.

20. The criminal revision is **partly allowed**. The impugned judgment dated 05.03.2024 passed by the learned Principal Judge, Family Court, Maharajganj, in Maintenance Case No. 298 of 2019 (Sushila & Another v. Rajiv Kumar), insofar as rejection of claim for maintenance of applicant no. 1/revisionist is concerned, is set aside.

21. The matter is remanded to the trial court for fresh adjudication of Issue Nos. 1 and 2 in light of the admissions of opposite party no. 2 and the purposive interpretation mandated in **Badshah v. Urmila Badshah Godse [(2014) 1 SCC 188]**.

22. The entitlement of applicant no. 2 (minor child) to maintenance at the rate of Rs. 5,000/- per month, as directed by the trial court, is

basis of such affidavits and evidence, and dispose of the matter expeditiously, preferably within three months.

(Achal Sachdev,J.)

July 10, 2026
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