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Neutral Citation No. - 2025:AHC:132193

Judgment Reserved on 19.05.2025

Judgment Delivered on 06.08.2025

In Chamber

Case :- CRIMINAL REVISION No. - 6354 of 2023

Revisionist :- [REDACTED] And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Ashok Kumar Yadav, Prem Shankar

Counsel for Opposite Party :- G.A., Kedar Nath Mishra

Hon'ble Ram Manohar Narayan Mishra, J.

1. Heard learned counsel for the revisionists, learned counsel for the respondent no.2 and learned A.G.A. for the State.

2. Instant Criminal Revision has been directed against the judgment order dated 18.10.2023 passed by learned Additional Principal Judge, Family Court, Court No.3, Deoria in Maintenance Case No.551 of 2022, under Section 125 Cr.P.C. Whereby the application for maintenance filed by the applicants have been dismissed. The applicant No.1 [REDACTED] claims himself to be wife of opposite party [REDACTED] and applicants No.2 and 3 are her minor children born out of her wedlock with previous husband [REDACTED].

3. The factual matrix of the case in brief are that the applicants moved an application under Section 125 Cr.P.C. before the Principal Judge, Family Court, Deoria dated 18.05.2022 with averments that applicant No.1 [REDACTED] was initially married with [REDACTED], the elder brother of opposite party No.2, from whom she born two children namely [REDACTED] who were minor at the time of filing of maintenance application. The applicant No.1 contracted second marriage with her brother-in-law on 15.06.2020, after death of her husband, according to hindu rites and rituals. Her husband Gaurav was posted in

police department at Azamgarh, and he took the applicants alongwith him at Azamgarh, where applicant No.1 lived with him alongwith her children and performed her matrimonial obligations. Her father had given sufficient cash and valuables in her second marriage with opposite party and his family members. However, they were not satisfied and started demanding Bullet Motorcycle, in view of non-fulfillment of demand of dowry they started harassing and beating applicant No.1. She was subjected to physical and mental cruelty by her second husband and in-laws. Opposite party used to threaten to contract remarriage with some other woman; he even contracted bigamous marriage with a girl namely [REDACTED] with the consent of his family members. When she raised protest of remarriage of her husband, she was kicked out by opposite party and his family members alongwith her children on 22.11.2021. She went back to her parental home, she visited her husband's house alongwith her brother at his residence at Azamgarh, but he and his so called wife turned her out from their residence. She any how, went back to her parental house after saving her life. A Panchayat was also convened to reconcile the matter of matrimonial discord, but of no avail. Applicant is not a skilled woman, she is not able to maintain herself and her minor children. Her husband is posted as Constable in U.P. Police, whose P.I. No.152052445, he is posted at Police Line, Azamgarh. He is able to maintain the applicants. His monthly salary is around Rs.70,000/- he also possesses agricultural land, from which he earns Rs.2 lakh annually.

4. The applicants prayed for providing Rs.30,000/- as maintenance to applicant No.1 and Rs.15,000/- to each of her minor children. Learned court below issued summon to opposite party [REDACTED] who appeared and file his written statement in the present case in which he admitted that applicant No.1 was married with his brother

[REDACTED] according to hindu rites and rituals and two children, a daughter Shiwangi and son Shreyansh were born out of their wedlock. [REDACTED] the elder brother of opposite party died on 20.07.2017, on being effected by Japanese Encephalitis at Sahara Hospital, Lucknow and since then applicant No.1 is leading a widowed life alongwith her children. She is in possession of the ancestral property, which is lying in the share of his elder brother [REDACTED]. Opposite party never received applicant No.1 as his wife and she was never performed matrimonial obligations with him. She was never married with the opposite party, therefore, no question of any demand or dowry, harassment or torture arises. No Panchayat as alleged by the applicant was ever convened. The opposite party was married with [REDACTED] Yadav, daughter of Satish Yadav in the year 2017 and since then [REDACTED] Yadav is cohabiting and lives with him as a wife. It is wrong to say that he has contracted second marriage with [REDACTED] Yadav. He got married only once and not twice as alleged by applicant No.1. Applicant No.1 resides at his parental house in village Karaundi, Police Station Rudrapur, District Deoria and she was never turned out from her matrimonial home. The opposite party was working in police department, therefore, on account of family settlement he was entrusted the responsibility of applicant No.1 and her children, which he accepted on the ground of humanity. No marriage ever took place between applicant No.1 and opposite party, her children are not his biological offsprings. The applicants have no legal right to claim maintenance from him. The applicant No.1 had moved an application before the higher authorities for getting her name entered in service book of opposite party. The alleged marriage of opposite party and applicant No.1 is void *ab initio*, because in hindu law, remarriage in life time of spouse is not permissible. Opposite party has filed an application before the family court, Deoria which is registered as Case

No.205 of 2022 **Gaurav Vs.** [REDACTED] for getting decree of annulment of alleged marriage dated 15.06.2020 with applicant No.1.

5. With above averments the answering opposite party had prayed for dismissing the application for maintenance.

5(a). It appears that proceedings under Section 12 of the Domestic Violence Act were also instituted by applicant No.1 against opposite party before the Court of Magistrate in District Deoria, wherein opposite party also appeared and file his written statement on 02.11.2022. He denied the factum of marriage with the applicant in said proceedings also. According to geneological table given in written statement of opposite party in proceedings under Protection of Women from Domestic Violence Act, the opposite party has four brothers, out of whom [REDACTED] died and three brothers Vipin, Ramniwas and Babloo are surviving.

6. The learned court below has framed a point of determination to the effect that whether applicant [REDACTED] is legally wedded wife of opposite party Gaurav and she is entitled to seek maintenance for herself and her minor children from [REDACTED].

7. Learned court below has considered the evidence adduced by the applicant and opposite party together with documentary evidence filed by them and after appreciating oral evidence of PW-1 [REDACTED] and DW-1 [REDACTED] together with the documents filed by the parties has given a finding that this is obvious that [REDACTED] was married with [REDACTED] which is admitted to both sides, but her second marriage with opposite party is not duly proved for want of sufficient evidence. No witness has been adduced by her, in support of her alleged marriage with opposite party. Opposite party has categorically denied to have ever married with the applicant.

Applicant No.1 has admitted that what ever property was lying in the share of [REDACTED] came to his children Shiwangi and Shreyansh. No evidence could be adduced in support of the contention of the applicants that marriage of applicant No.1 and opposite party was solemnized on 15.06.2020 according to hindu rites and rituals. Therefore, applicant No.1 [REDACTED] had failed to prove her assertion that she was married with opposite party Gaurav according to hindu rites and rituals.

8. With above findings, learned court below has concluded in the impugned judgment that in view of finding of issue No.1, it is obvious that neither applicant No.1 is legally wedded wife of opposite party nor her children are his offsprings. This is admitted fact that applicant No.2 and 3 are biological children of [REDACTED], the deceased elder brother of opposite party.

9. Learned trial court has dismissed the maintenance petition filed by the applicants with above observations and finding.

Learned counsel for the revisionist submitted that impugned judgment and order passed by learned court below is against the strength of evidence on record and suffers from illegality. Learned court below has dismissed the maintenance petition filed by the applicants in cursory manner, without appreciating the evidence on record in proper perspective.

10. The learned court below has over-sighted the admission of opposite party that he accepted the responsibility of applicant No.1 and her children born out of her wedlock with [REDACTED], on asking of his family members. In fact, he contracted remarriage with applicant No.1 after death of her husband [REDACTED] who was admittedly elder brother of opposite party. He had also adopted his children as his own

and contracted marriage with applicant No.1. Applicant No.1 substituted the name of her previous husband [REDACTED] by opposite party [REDACTED] in her Aadhar Card, Caste Certificate, Bank Account and opening form and residential certificate issued on 10.10.2021, which indicate that revisionist is a valid spouse of opposite party No.2. They live and cohabited together after marriage for long time. Revisionist No.1 had filed a complaint on 07.02.2022 against opposite party [REDACTED], before DIG Azamgarh regarding his bigamous marriage with [REDACTED] Yadav, on which DIG, Azamgarh Range instituted an inquiry in the matter. Police Circle Officer, conducted the inquiry and submitted his report before S.S.P., Azamgarh on 20.03.2022 which reflects that the inquiry officer found opposite party [REDACTED] being guilty of bigamous marriage, in said inquiry opposite party and his second wife [REDACTED] Yadav, admitted the fact that opposite party was married with [REDACTED]. On the basis of documentary evidence at the admission stage it is proved that after the death of [REDACTED] his widowed wife got married with [REDACTED] her brother-in-law and lived with him as his spouse. Inasmuch as opposite party admitted the factum of marriage with [REDACTED] in implicit manner in departmental inquiry which reflects from his statement recorded before the Circle Officer, Sadar, Azamgarh.

11. He lastly submitted that this is trite law, that when the man and woman lived together has husband and wife for longtime a presumption is raised, they are legally married couple and this is sufficient for claim of maintenance by a wife under Section 125 Cr.P.C.. The maintenance claim made by his wife or children should not be frustrated by adopting hyper technical approach, because this is a beneficial legislation providing maintenance for wife, minor children an old and infirm parents. He also submitted that [REDACTED]

Yadav who holds out as wife of opposite party was married with Ranjeeet Yadav, who is his legally wedded wife and she has purchased a vehicle Bolero Car bearing Registration No. UP50BW0497 in which name of registered owner is shown as [REDACTED] Yadav wife of Ranjeet Yadav.

12. The concerned village Pradhan has also issue a certificate on 29.01.2022 to the effect that [REDACTED] was married with [REDACTED] [REDACTED] on 15.06.2020. Applicant no.1 lodged an FIR vide Case Crime No.17 of 2022, under Section 323, 494, 498A IPC against opposite party with allegation of matrimonial cruelty, causing physical assault and contracting remarriage with another woman.

13. With above submissions, learned counsel prayed for setting-aside the impugned judgment and order providing maintenance to the revisionist.

14. Per contra, learned counsel for the respondent No.2 submitted that learned trial court has rightly given a finding that on the basis of evidence adduced by the parties, the factum of marriage of applicant No.1 with respondent No.2 is not proved. This is admitted fact that revisionist Nos.2 and 3 were born out of wedlock of revisionist No.1 with her previous husband [REDACTED]. They are admittedly not biological children of opposite party No.2. Therefore, he is neither under obligation to pay maintenance to applicant No.1 nor her children. It is wrong to say that respondent No.2 had adopted her children as his own. He had undertaken responsibility of the revisionist to look after them on persuasion of family members on humanitarian consideration and only for that reason he cannot be saddled with legal responsibility to maintain them. The revisionist No.1 has filed several legal proceedings against him only to harass him. Revisionist No.1 is already in possession of the ancestral

property lying to the share of her deceased husband [REDACTED], his father is alive. This is wrong to say that revisionist No.1 was ever restrained by his family members to stay in the home. Revisionist No.1 was residing at his family residence as widowed wife of his elder brother. The respondent No.2 has filed a suit for annulment and marriage against [REDACTED] only to avoid legal complications created by him, otherwise no marriage ever took place between them.

15. I have gone through the lower court record as well as record of present revision in the light of submissions made by learned counsel for the contesting parties.

16. Learned counsel for the revisionist placed reliance on a judgment of Hon'ble Supreme Court in **Chanmuniya Vs. Virendra Kumar Singh Kushwaha and another** (2011) 1 SCC 141, wherein Hon'ble Supreme Court in a matter under Section 125 Cr.P.C. observed as under:-

“ 33. We are inclined to take a broad view of the definition of 'wife' having regard to the social object of Section 125 in the Code of 1973. However, sitting in a two-Judge Bench, we cannot, we are afraid, take a view contrary to the views expressed in the abovementioned two cases.

46. We are of the opinion that a broad and expansive interpretation should be given to the term 'wife' to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time, and strict proof of marriage should not be a pre-condition for maintenance under [Section 125](#) of the Cr.P.C, so as to fulfil the true spirit and essence of the beneficial provision of maintenance under Section

47. We also believe that such an interpretation would be a just application of the principles enshrined in the Preamble to our Constitution, namely, social justice and upholding the dignity of the individual.”

17. In another judgment **Kamala and others Vs. M.R. Mohan Kumar** AIR 2018 SC 5218 Hon’ble Court observed as under:-

16. It is fairly well settled that the law presumes in favour of marriage and against concubinage when a man and woman have cohabited continuously for a number of years. After referring to various judgments, in [Chanmuniya v. Virendra Kumar Singh Kushwaha](#) (2011) 1 SCC 141, this Court held as under:-

“11. Again, in [Sastry Velaider Aronegary v. Sembecutty Vaigalie](#) (1881) 6 AC 364, it was held that where a man and woman are proved to have lived together as man and wife, the law will presume, unless the contrary is clearly proved, that they were living together in consequence of a valid marriage, and not in a state of concubinage.

12. In India, the same principles have been followed in [Andrahennedige Dinohamy v. Wijetunge Liyanapatabendige Balahamy](#) AIR 1927 PC 185, in which the Privy Council laid down the general proposition that where a man and woman are proved to have lived together as man and wife, the law will presume, unless, the contrary is clearly proved, that they were living together in consequence of a valid marriage, and not in a state of concubinage.

13. In [Mohabbat Ali Khan v. Mohd. Ibrahim Khan](#) AIR 1929 PC 135 the Privy Council has laid down that the law presumes in favour of marriage and against concubinage when a man and woman have cohabited continuously for number of years.

14. In [Gokal Chand v. Parvin Kumari](#) AIR 1952 SC 231, this Court held that continuous cohabitation of man and woman as husband and wife may raise the presumption of marriage, but the presumption which may be drawn from long cohabitation is rebuttable and if there are

circumstances which weaken and destroy that presumption, the Court cannot ignore them.

15. Further, in [Badri Prasad v. Director of Consolidation](#) (1978) 3 SCC 527, the Supreme Court held that a strong presumption arises in favour of wedlock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of legal origin.

16. Again, in [Tulsa v. Durghatiya](#) (2008) 4 SCC 520, this Court held that where the partners lived together for a long spell as husband and wife, a presumption would arise in favour of a valid wedlock.” This Court in [Chanmuniya](#) case further held as under:-

“24. Thus, in those cases where a man, who lived with a woman for a long time and even though they may not have undergone legal necessities of a valid marriage, should be made liable to pay the woman maintenance if he deserts her. The man should not be allowed to benefit from the legal loopholes by enjoying the advantages of a de facto marriage without undertaking the duties and obligations. Any other interpretation would lead the woman to vagrancy and destitution, which the provision of maintenance in [Section 125](#) is meant to prevent.”

18. In another judgment of Hon’ble Supreme Court in respect of matter in issue in present case **Smt. N. Usha Rani and another Vs. Moodudula Srinivas in Criminal Appeal arising out of SLP (Crl.) No. 7660 of 2017**, wherein vide judgment dated 30.01.2025 the Apex Court considered its earlier judgment [Rameshchandra Rampratapji Daga Vs. Rameshwari Rameshchandra Daga](#) (2005) 2 SCC 33 ; [Chanmuniya vs. Virendra Kumar Singh Kushwaha and another](#) (2011) 1 SCC 141; [Savitaben Somabhai Bhatiya Vs. State of Gujarat and others](#) (2005) 3 SCC 636 ; [Captain Ramesh Chander Kaushal vs. Veena Kaushal and Others](#) (1978) 4 SCC 70; [Vimala \(K\) vs. Veeraswamy \(K\)](#) (1991) 2 SCC 375; [Dwarika Prasad Satpathy vs. Bidyut Prava Dixit and Another](#) (1999) 7 SCC 675; [Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav and Another](#) (1988) 1

SCC 530; [Bakulabai and Another vs. Gangaram and Another](#) (1988) 1 SCC 537. Hon'ble Court held that this diversion in judicial opinion has also been noted by Apex Court in Chammuniya (supra) and therefore, the question of whether women in livein relationship can claim maintenance under Section 125 Cr.P.C. was referred to larger bench.

19. Hon'ble Court in **Smt. N. Usha Rani (supra)** reproduced paragraph 24 and 24 as follows:-

“24. Thus, in those cases where a man, who lived with a woman for a long time and even though they may not have undergone legal necessities of a valid marriage, should be made liable to pay the woman maintenance if he deserts her. The man should not be allowed to benefit from the legal loopholes by enjoying the advantages of a de facto marriage without undertaking the duties and obligations. Any other interpretation would lead the woman to vagrancy and destitution, which the provision of maintenance in Section 125 is meant to prevent.

25. The Committee on Reforms of Criminal Justice System, headed by Dr. Justice V.S. Malimath, in its Report of 2003 opined that evidence regarding a man and woman living together for a reasonably long period should be sufficient to draw the presumption that the marriage was performed according to the customary rites of the parties. Thus, it recommended that the word “wife” in [Section 125](#) CrPC should be amended to include a woman who was living with the man like his wife for a reasonably long period...”

20. Hon'ble Court further observed as under:-

16. Most recently, in [Badshah vs. Urmila Badshah Godse and Another](#) (2014) 1 SCC 188, this Court granted maintenance to a second wife who was kept in the dark about her husband's first subsisting marriage. The Court noted:

“13.3. Thirdly, in such cases, purposive interpretation needs to be given to the provisions of [Section 125](#) CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve “social justice” which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.”

18. In the opinion of this Court, when the social justice objective of maintenance u/s. 125CrPC is considered against the particular facts and circumstances of this case, we cannot, in good conscience, deny maintenance to Appellant No. 1. It is settled law that social welfare provisions must be subjected to an expansive and beneficial construction and this understanding has been extended to maintenance since [Ramesh Chander](#) (supra). An alternate interpretation would not only explicitly defeat the purpose of the provision by permitting vagrancy and destitution, but would also give legal sanction to the actions of the Respondent in knowingly entering into a marriage with Appellant No.1, availing its privileges but escaping its consequent duties and obligations. The only conceivable mischief that could arise in permitting a beneficial interpretation is that the Appellant No.1 could claim dual maintenance--however, that is not the case under the present facts. We are aware that this Court has previously denied maintenance in cases of subsisting marriages (See [Yamunabai](#) (supra) and [Bakulabai](#) (supra)). However, a plea of separation from the first marriage was not made in those cases and hence, they are factually distinguishable. It must be

borne in mind that the right to maintenance [u/s. 125 CrPC](#) is not a benefit received by a wife but rather a legal and moral duty owed by the husband. A recent landmark judgement of this Court in [Mohd. Abdul Samad vs. State of Telangana and Another](#) (2024) SCC OnLine SC 1686 has shed greater light on this duty in the Indian context:

“43. In this context, I would like to advert to the vulnerability of married women in India who do not have an independent source of income or who do not have access to monetary resources in their households particularly for their personal expenses. In Indian society, it is an established practice that once a daughter is married, she resides with her husband and/or his family unless due to exigency of career or such other reason she has to reside elsewhere. In the case of a woman who has an independent source of income, she may be financially endowed and may not be totally dependent on her husband and his family. But what is the position of a married woman who is often referred to as a “homemaker” and who does not have an independent source of income, whatsoever, and is totally dependent for her financial resources on her husband and on his family? It is well-known that such an Indian homemaker tries to save as much money as possible from the monthly household budget, not only to augment the financial resources of the family but possibly to also save a small portion for her personal expenses. Such a practice is followed in order to avoid making a request to the husband or his family for her personal expenses. Most married men in India do not realise this aspect of the predicament such Indian homemakers face as any request made for expenses may be bluntly turned down by the husband and/or his family. Some husbands are not conscious of the fact that the

wife who has no independent source of finance is dependent on them not only emotionally but also financially. On the other hand, a wife who is referred to as a homemaker is working throughout the day for the welfare of the family without expecting anything in return except possibly love and affection, a sense of comfort and respect from her husband and his family which are towards her emotional security. This may also be lacking in certain households.

21. On perusal of evidence adduced by the parties, it appears that respondent No.2 has denied the factum of marriage asserted by the revisionist No.1 with him, he categorically denied in his sworn testimony before the court below that on 15.06.2020 no marriage between Madhu and him took place according to hindu rites and rituals. In fact she was married with his elder brother [REDACTED] who died in the year 2017 and Madhu is in possession of property of [REDACTED]. In ancestral house at Karaundi, Police Station Rudrapur, Madhu is in possession of the share of his brother. She was never turned out from his ancestral home. She was never harassed or tortured, he never contracted second marriage with Madhu. She is studied up to B.A. Madhu and her children have received maintenance from the property of his brother. He was married with [REDACTED] according to hindu rites and rituals and blessed with two children from her. This marriage took place on 07.05.2017, he works in U.P. Police, he bears responsibility of maintaining his parents, wife and two children and ailing brother whose kidney has become dis-functional. He has taken Rs. 9 lakh as loan from Bank. Thus, half of his salary is deducted for repayment of loan. Madhu has wrongly got his name entered in her Aadhar Card. The agricultural land is lying in the name of his father, which is cultivated by his elder brother

Ram Niwas. Chargesheet has been filed case under Section 498A IPC, he has assailed the chargesheet before the High Court, he was also challaned under Section 146 Cr.P.C. by the police due to his verbal altercation with Madhu, at Police Station. He had never moved any application before B.D.O. Rudrapur for getting name of [REDACTED] Yadav entered in records. He was not aware that [REDACTED] Yadav was previously married with Ranjeet, he is not aware that [REDACTED] Yadav has stated in her statement in inquiry that she was married with Ranjeet and from whom she has not taken divorce. He is not aware that in inquiry conducted by Senior Police Officer is against him. He admitted that he got married with [REDACTED] after the death of his brother. This wrong to say that Madhu is his wife, his net monthly salary is Rs.32,000/-The departmental inquiry was conducted against him on complainant of Madhu.

22. PW-1 [REDACTED] has stated in her statement before the Court that her husband [REDACTED] died on 19.07.2017, and thereafter she contracted marriage with Gaurav who was his brother-in-law on 15.06.2020 with consent of both families. She was harassed by Gaurav and his family members after marriage with him for non-fulfillment of demand of dowry and ultimately she was turned out from her matrimonial home on 22.11.2022 after giving her beating. Her stridhan has been grabbed by Gaurav and his family members. Gaurav solemnized second marriage with [REDACTED], she came to know this fact when she went to Azamgarh, [REDACTED] is also resident of Azamgarh. She has studied up to Class-8th only, all her relatives assembled in her second marriage with Gaurav. She can produce them as witness of her marriage with Gaurav was solemnized with seven rounds ceremony. Gaurav undertook the responsibility of her

children at the time of her marriage. In lower court record, a copy of the sale deed dated 12.05.2020 is attached which reveals that [REDACTED] Yadav the wife of Gaurav purchased a plot from its previous owner Bharat Bhushan Pandey for Rs.5,85,000/-. The area of the land is 96.87 Sq. mts., which is non-agricultural in nature and situates at Jafarpur, District Azamgarh. [REDACTED] Yadav has shown herself as wife of Ranjeet Yadav in this sale deed and not as wife of [REDACTED].

23. Revisionist has filed affidavit of disclosure of assets and liabilities before the court below on 18.05.2022, in which she has not shown any income of her own. She has shown two minor children being dependent on her. She has shown her qualification as graduation. Sangeet Yadav who claims to be a wife of respondent No.2 has filed an affidavit before the court below on 17.04.2023, in which she has stated that she solemnized marriage with opposite party Gaurav on 07.05.2017 in Vandevi temple and since then she has been living as his wife.

24. It is further stated by the respondent No.2 that [REDACTED] [REDACTED] was never married with [REDACTED], she is rightful owner of the property left behind her husband [REDACTED] alongwith her children. In Kutumb Register, revisionist [REDACTED] [REDACTED] is shown as wife of [REDACTED], who died on 20.06.2017. In ration card dated 21.08.2018 she is shown as wife of [REDACTED]. However, the case of revisionist is that she contracted second marriage with Gaurav in the year 2020. Revisionist has also filed some photographs in support of her version that she was married with Gaurav, which is annexed as Ext. 17 Kha/17 in lower court court record.

25. An inquiry was conducted by the Circle Officer, Police District Azamgarh, on the complaint of revisionist No.1. Ms. Saumya Singh Circle Officer, Sadar Azargarh who recorded statements of [REDACTED] wife of Constable [REDACTED], Constable [REDACTED], [REDACTED] Yadav wife of [REDACTED]. Revisionist [REDACTED] stated in said inquiry that after being thrown out from her matrimonial home she resides in a rented house at Sidhari, District Azamgarh, her husband Gaurav often states to landlord Ballu Sonkar, that he would not pay the rent. Gaurav contracted second marriage with [REDACTED] Yadav in the year 2021, who is resident of Chaffarpur, District Azamgar. She is suffering from acute financial crisis.

26. Constable [REDACTED] has stated in the inquiry that he solemnized marriage with [REDACTED] Yadav in the year 2017 with consent of her parents and would stay with her at pvt. quarter. He contracted second marriage with [REDACTED] with consent of his wife Sangeet Yadav and family members of [REDACTED], every thing was fine up to June, 2020 to December 2021. Thereafter at the instance of SHO Mahila Thana a compromise arrived at between him and his wives [REDACTED] and [REDACTED] Yadav, wherein it was agreed that he would pay Rs.8,000/- to [REDACTED] and Rs.7,000/- to [REDACTED] Yadav for their expenses.

27. It is difficult for him to pay Rs.8,000/- as maintenance to [REDACTED], as she has filed several cases against him. [REDACTED] Yadav has also stated in the inquiry that she was married with Gaurav in the year 2017 and on 15.06.2020 second marriage was solemnized between Madhu and Gaurav with consent of both the family members, but due to harsh and

abusive attitude of [REDACTED], the spouse got separated. She also stated that she was married with Ranjeet Yadav in the year 2009, but the said marriage was dissolved in the year 2014 on the basis of compromise, she got separated from her husband, but divorce has not taken place between them.

28. On the basis of above statements of the parties, the inquiry officer concluded that [REDACTED] being a Government Servant contracted second marriage with the complainant [REDACTED] with consent of her parents on 15.06.2020 at his parental place village Karaundi, Police Station Rudrapur, District Deoria. Thus, he is guilty of bigamy. This conclusion of Inquiry Officer has been communicated by S.P. Azamgarh to DIG Azamgarh Bench vide letter dated 01.04.2022.

29. On the basis of statements given by the parties in departmental inquiry against respondent No.2 on complaint of revisionist, this fact is prima facie proved that respondent No.2 contracted second marriage with revisionist No.1 in the year 2020, with the consent of both the families. This fact is also prima facie proved that prior to second marriage with revisionist No.1, respondent No.2 was married with one [REDACTED] Yadav and revisionist Nos. 2 and 3 are offsprings of previous husband of [REDACTED]. Therefore, the finding of lower court that this fact is not proved that applicant [REDACTED] is legally wedded wife of opposite party and she is not entitled to seek maintenance from him cannot be countenanced. Learned trial court has taken a hyper technical approach while rejecting the claim of maintenance raised by applicant No.1 [REDACTED]. This is admitted case that revisionist No.1 is not employed anywhere, even if, it is assumed that she is in possession of the ancestral

property of her previous husband [REDACTED], on account of his death, it cannot be assumed that it is sufficient for maintenance of the applicants.

30. This fact is also noticeable that even if it is assumed that the revisionist No.1 is second wife of the respondent No.2. Keeping in view admission of his wife [REDACTED] that no decree of divorce was passed in respect of her earlier marriage with Ranjeet. On the other hand there was no legal impediment in the marriage between revisionist No.1 and respondent No.2, previous husband of the revisionist No.1 had already died. Therefore, claim of the revisionist No.1 as wife of the respondent No.2 lies on higher footing than that of said [REDACTED] Yadav.

31. On the other hand, respondent No.2 is employed in police department as Constable. He is possessed of sufficient income to maintain the applicant No.1 who is bearing responsibility of her two minor children also born out of her wedlock with [REDACTED].

32. Adverting to the dicta of Hon'ble Supreme court in **Chanmuniya** (supra) it can be held that a very broad and expansive interpretation is required to be given to term 'wife' for maintenance under Section 125 Cr.P.C. so as to include those cases where a man and woman have been living together as husband and wife a reasonable long period of time, and strict proof of marriage should not be a precondition for maintenance in such cases. Therefore, the impugned judgment and order is not sustainable.

33. Learned court below has committed legal and factual error while dismissing the application under Section 125 Cr.P.C. on the

technical ground that factum of marriage of applicant No.1 and opposite party is not duly proved.

34. Consequently, the impugned judgment and order dated 18.10.2023 passed by learned Additional Principal Judge, Family Court No.3, Deoria is set-aside and matter is remitted to court below for decision afresh in light of observations made herein above treating the revisionist as wife of the respondent No.2. Respondent No.2 shall pay Rs.8,000/- as interim monthly maintenance to applicant No.1 during the pendency of the maintenance case from today which stands restored on the strength of this revisional order.

35. Let record of learned court below be transmitted with a copy of this judgment for further proceedings.

36. The revision stands **allowed**, accordingly with above observations.

Order Date :- 06.08.2025

Ashish/-