



2026:AHC:144706

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 196 of 2024

[REDACTED]

.....Revisionist(s)

Versus

State of UP and another

.....Opposite Party(s)

Counsel for Revisionist(s)	: Awadh Narain Rai, Ayushi Dubey
Counsel for Opposite Party(s)	: G.A., Rohit Shukla

With

CRIMINAL REVISION No. - 491 of 2024

[REDACTED]

.....Revisionist(s)

Versus

State of UP and another

.....Opposite Party(s)

Counsel for Revisionist(s)	: Rohit Shukla, Ronak Chaturvedi
Counsel for Opposite Party(s)	: Ayushi Dubey, G.A.

Reserved on 24.04.2026
Delivered on 16.07.2026

In Chamber

HON'BLE GARIMA PRASHAD, J.

1. These two criminal revisions arise out of the common judgment and order dated 24.11.2023 passed by the Principal Judge, Family Court, Mathura in proceedings under Section 125 Cr.P.C., and, as they arise out of the same proceedings and involve common questions of fact and law,

they were heard together and are being decided by this common judgment.

2. Criminal Revision No. 491 of 2024 has been preferred by the revisionist-husband [REDACTED] challenging the judgment and order dated 24.11.2023 on the ground that the marriage between the parties was not a valid marriage in the eyes of law as the marriage of the revisionist with his first wife had not been dissolved on the date of the alleged marriage with the revisionist wife and, therefore, the application under Section 125 Cr.P.C. itself was not maintainable.

3. Criminal Revision No. 196 of 2024 has been preferred by the revisionist-wife, [REDACTED] seeking enhancement of maintenance on the ground that the amount of Rs.6,000/- per month awarded by the Family Court is wholly inadequate considering that the opposite party-husband is a government servant working as a Lekhpal and is earning approximately Rs.50,000/- per month.

4. Heard Sri Ankit Kumar Pal, holding brief of Ms. Ayushi Dubey, learned counsel for the revisionist, Sri Rohit Shukla, learned counsel for the opposite party no. 2 and learned Standing Counsel for the State.

5. The undisputed facts evident from the record are that the revisionist-wife namely [REDACTED] instituted proceedings under Section 125 Cr.P.C. on 29.01.2018 claiming maintenance from the opposite party-husband [REDACTED]. It was alleged that her marriage with the revisionist-husband was solemnized on 12.12.2016 according to Hindu rites and ceremonies. The husband contested the proceedings principally on the ground that no valid marriage had taken place and further asserted that on the date of the alleged marriage, his earlier marriage with one Smt. Neelam was subsisting.

6. From the record, it is evident that the husband-opposite party had earlier contracted marriage with Smt. Neelam on 29.02.2008 and that the said marriage came to be dissolved by a decree of divorce by mutual consent only on 15.11.2017. Thus, on the date of the marriage alleged by

the present revisionist-wife, i.e. 12.12.2016, the earlier marriage of the opposite party was admittedly subsisting.

7. The Family Court, after appreciation of the oral and documentary evidence adduced by the parties, recorded a categorical finding that the marriage ceremonies between the parties were in fact performed according to Hindu rites and customs. It further held that the plea of the opposite party that the marriage had been solemnized forcibly at gunpoint was not proved. The Family Court also found that the opposite party had concealed the fact of his subsisting marriage from the revisionist-wife and that the revisionist-wife had entered into the matrimonial relationship without knowledge of the subsisting first marriage of the opposite party. The Family Court further held that although the marriage between the parties was not a valid marriage in the strict sense of law owing to the subsistence of the earlier marriage of the opposite party, the revisionist-wife was nevertheless entitled to maintenance under Section 125 Cr.P.C. in view of the law laid down by the Hon'ble Supreme Court.

8. The principal submission advanced on behalf of the revisionist-husband is that since the marriage between the parties was void owing to the subsistence of his earlier marriage, the revisionist wife could not have been granted maintenance under Section 125 Cr.P.C. This submission cannot be accepted.

9. The Hon'ble Supreme Court in *Badshah vs. Sou. Urmila Badshah Godse and Another, (2014) 1 SCC 188*, while dealing with a case where the husband had concealed his subsisting first marriage and induced the woman to marry him, held that such a husband cannot be permitted to take advantage of his own wrong and deny maintenance to the woman who had entered into the marriage without knowledge of the subsisting earlier marriage. The Hon'ble Supreme Court observed that for the purposes of Section 125 Cr.P.C., such a woman would be entitled to claim maintenance and that the earlier decisions denying maintenance in cases of void marriage would apply only where the woman had entered

into the relationship with full knowledge of the subsisting first marriage. The relevant observations of the Hon'ble Supreme Court are as follows:

“We are dealing with a situation where the marriage between the parties has been proved. However, the petitioner was already married. But he duped the respondent by suppressing the factum of alleged first marriage. On these facts, in our opinion, he cannot be permitted to deny the benefit of maintenance to the respondent, taking advantage of his own wrong....For the purpose of Section 125 Cr.P.C., respondent No.1 would be treated as the wife of the petitioner.”

10. The aforesaid principle has subsequently been reiterated by the Hon'ble Supreme Court in ***Kamala and Others vs. M.R. Mohan Kumar, (2019) 11 SCC 491***, wherein it was held that where a woman is induced into marriage by concealment of the husband's existing marriage, a beneficial and purposive interpretation of Section 125 Cr.P.C. is required to prevent exploitation and destitution.

11. In the present case, the Family Court has recorded a finding of fact, based on appreciation of evidence, that the revisionist-wife had no knowledge of the subsisting marriage of the revisionist-husband and that the revisionist-husband had fraudulently concealed the said fact. No perversity or illegality in the said finding could be demonstrated before this Court. Consequently, the revisionist wife was rightly held entitled to claim maintenance under Section 125 Cr.P.C., notwithstanding the invalidity of the marriage under personal law.

12. In view of the aforesaid discussion, this Court does not find any perversity, illegality or jurisdictional error in the findings recorded by the Family Court. Accordingly, Criminal Revision No.491 of 2024 filed by the husband lacks merit and is liable to be dismissed.

13. So far as Criminal Revision No. 196 of 2024 preferred by the wife is concerned, this Court finds substance in the submission advanced on behalf of the revisionist-wife that the maintenance awarded by the Family Court is grossly inadequate.

14. The Family Court has recorded a finding that the revisionist-husband is employed as a Lekhpal in the Revenue Department and possesses sufficient means to maintain the revisionist-wife. The Family Court has further noticed that in the affidavit relating to assets, income and expenditure filed by the revisionist-husband, his monthly income was disclosed to be approximately Rs.35,000/-.

15. The object of Section 125 Cr.P.C. is to prevent destitution and vagrancy and to ensure that a wife who is unable to maintain herself is enabled to live with dignity and reasonable comfort commensurate with the status and financial capacity of the husband. The amount awarded by way of maintenance should not be so illusory as to defeat the very object of the provision. Reference may also be made to the judgment of the Hon'ble Supreme Court in *Rajnish vs. Neha and Another, (2021) 2 SCC 324*, wherein the principles governing determination of maintenance and the necessity of awarding realistic and adequate maintenance have been emphasized.

16. Keeping in view the settled principle that maintenance should constitute a reasonable proportion of the earning capacity of the husband so as to enable the wife to live with dignity commensurate with the status of the parties, and considering that the revisionist-husband is a permanent government employee serving as a Lekhpal with a stable source of income and entitlement to periodic increments, coupled with the increase in the cost of living since the institution of the proceedings in the year 2018, this Court is of the considered opinion that the maintenance awarded by the Family Court at the rate of Rs.6,000/- per month is inadequate and requires enhancement.

17. Accordingly, the maintenance awarded to the revisionist-wife is modified and enhanced in the following manner:

(i) The revisionist-husband shall pay maintenance to the revisionist-wife at the rate of Rs.10,000/- (Rupees Ten Thousand only) per month from the date of filing of the application under Section 125 Cr.P.C., i.e.,

29.01.2018, till the date of the judgment of the Family Court dated 24.11.2023;

(ii) The revisionist-husband shall further pay maintenance to the revisionist-wife at the rate of Rs.12,000/- (Rupees Twelve Thousand only) per month with effect from 24.11.2023 and shall continue to pay the same regularly by the 10th day of each succeeding month.

18. The arrears of maintenance payable in terms of the present judgment shall be calculated by the Family Court concerned and shall be paid by the revisionist-husband within a period of six months from today in six equal monthly instalments.

19. It is further provided that during the period of payment of arrears, the revisionist-husband shall continue to pay the current monthly maintenance at the rate of Rs.12,000/- per month without default.

20. In the event of default in payment of any instalment of arrears or current maintenance, it shall be open to the Family Court concerned to recover the amount by attachment of the salary and/or salary account of the revisionist-husband and by adopting all other coercive measures available in law.

21. Accordingly, the judgment and order dated 24.11.2023 passed by the Principal Judge, Family Court, Mathura is modified to the extent indicated hereinabove and is affirmed in all other respects.

22. Consequently, Criminal Revision No.491 of 2024 preferred by the husband is dismissed, whereas Criminal Revision No.196 of 2024 preferred by the wife is partly allowed.

23. Let the lower court record be returned forthwith.

(Garima Prashad,J.)

July 16, 2026

Sachin Mishra