UKHC010002732026

2026:UHC:8160

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 14 of 2026

10 September, 2026

Gaurav Kalura .....Revisionist

Versus

State Of Uttarakhand and Another

.....Respondents

Presence:-

Mr. Devang Dobhal, learned counsel for revisionist.

Mr. Deepak Bisht, learned Deputy A.G. along with Mr. Jai Prakash Kandpal, learned Brief Holder for the State.

Mr. Bhuvnesh Joshi, learned counsel for respondent no.2.

Hon'ble Mr. Alok Mahra, J. (Oral)

By means of the present criminal revision, the revisionist has assailed the judgment and order dated 16.12.2025 passed by the learned Judge, Family Court, Uttarkashi in Misc. Criminal Case No.11 of 2023, whereby the learned Family Court has allowed the application under Section 125 Cr.P.C. and awarded maintenance of ₹20,000/- per month in favour of respondent no.2 from the date of filing of the application, i.e. 11.04.2023.

2. Learned counsel for the revisionist would submit that the impugned judgment and order has been passed by the learned Family Court contrary to the

evidence available on record as well as the settled principles of law; that, the findings recorded by the learned Family Court are based on conjectures and surmises and are not supported by cogent and reliable evidence; that, respondent no.2 is not the legally wedded wife of the revisionist and, therefore, she is not entitled to claim maintenance under Section 125 Cr.P.C.

3. Learned counsel for the revisionist would further submit that the revisionist is serving as a Soldier in 12 Garhwal Rifles, C/o 56 A.P.O. and that the learned Family Court has awarded maintenance of ₹20,000/- per month merely on the basis of the statement of DW2, who stated that the revisionist was earning approximately ₹60,000/- per month. According to him, no documentary evidence regarding the actual salary or income of the revisionist was brought on record and, therefore, the quantum of maintenance fixed by the learned Family Court is excessive and without any proper basis.

4. Learned counsel for the revisionist would further submit that there is no reliable evidence to establish that the marriage between the revisionist and respondent no.2 was solemnized in accordance with the

essential ceremonies prescribed under Section 7 of the Hindu Marriage Act, 1955. He would submit that there is no cogent evidence regarding the performance of the essential marriage ceremonies, including the ceremony of Saptapadi, if applicable to the parties. He would further submit that the priest/Pandit, who was alleged to have solemnized the marriage, has himself stated on oath that he did not perform the marriage ceremonies between the revisionist and respondent no.2. Thus, according to learned counsel for the revisionist, the very existence of a valid marriage between the parties was not established before the learned Family Court.

5. Learned counsel for the revisionist would further submit that respondent no.2 had earlier instituted proceedings for maintenance under Section 125 Cr.P.C. before the learned Judicial Magistrate, Barkot, District Uttarkashi, being Case No.11 of 2023, which were dismissed after the learned Magistrate recorded a finding that respondent no.2 had failed to establish her marriage with the revisionist; that, respondent no.2 preferred a criminal revision against the said order and the learned Sessions Judge, Uttarkashi remanded the matter to the court below, the

learned Family Court, while passing the impugned judgment, failed to properly appreciate the evidence regarding the alleged marriage.

6. Learned counsel for the revisionist would also submit that respondent no.2 had lodged a criminal case against the revisionist and his family members under Sections 323, 504, 506 and 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act; that, after investigation, charge-sheet was submitted and the revisionist and his parents faced trial; that, the learned trial court ultimately acquitted them, inter alia, observing that the prosecution had failed to establish the marital relationship between the revisionist and respondent no.2; that, the statement of the priest, who allegedly performed the marriage, also does not support the case of respondent no.2. In support of his submissions, learned counsel for the revisionist has placed reliance upon the judgment of the Hon'ble Supreme Court in Yamunabai Anantrao Adhav Vs. Anantrao Shivram Adhav 1988(1) SCC 530, wherein the Hon'ble Supreme Court considered the entitlement of a woman claiming maintenance under Section 125 Cr.P.C. in a case where the alleged marriage was void in law.

7. He would submit that the expression "**wife**" occurring in Section 125 Cr.P.C. contemplates a legally wedded wife and, in the absence of a valid marriage, no maintenance can be claimed under the said provision.

8. Per contra, learned counsel appearing for respondent no.2 would submit that the marriage between the revisionist and respondent no.2 was solemnized on 16.03.2022. He would submit that respondent no.2 produced documentary material before the learned Family Court, including an agreement executed between the parties in the presence of witnesses, wherein the parties had agreed to solemnize their marriage. He would further submit that respondent no.2 also produced a certificate issued by the Pandit, who had conducted the marriage, as well as other material indicating the relationship between the parties.

9. Learned counsel for respondent no.2 would further submit that the revisionist himself instituted Suit No.96 of 2022 before the learned Civil Judge (Junior Division), Uttarkashi under Section 34 of the Specific Relief Act, seeking a declaration that respondent no.2 was not his legally wedded wife and that the alleged marriage between the parties was null and void; that, in

the said suit, respondent no.2 filed her written statement, wherein she specifically pleaded that after going to her matrimonial home, she was subjected to assault and was driven out by her in-laws and that, thereafter, she lodged an F.I.R. against the revisionist and his family members.

10. It is further submitted that the aforesaid civil suit was dismissed for want of prosecution vide order dated 26.09.2023 and the revisionist did not take any effective steps to get the said order recalled or to have the suit adjudicated on its merits; that, the conduct of the revisionist in instituting the aforesaid suit itself demonstrates that the relationship between the parties was acknowledged and disputed by him only subsequently. He would further submit that proceedings under Section 125 Cr.P.C. are summary proceedings intended to prevent destitution and vagrancy and, therefore, the learned Family Court has rightly appreciated the material available on record. In support of his submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in Rajnesh Vs. Neha and Another (2021) 2 SCC 324.

11. Having heard learned counsel for the parties

and having perused the material available on record, this Court finds that the principal controversy between the parties is with regard to the existence of a valid marital relationship between the revisionist and respondent no.2 and, consequently, the entitlement of respondent no.2 to maintenance under Section 125 Cr.P.C.

12. It is not in dispute that the revisionist himself instituted Suit No. 96 of 2022 before the competent civil court seeking a declaration to declare his marriage with respondent no. 2 as null and void. The said suit, however, came to be dismissed for want of prosecution vide order dated 26.09.2023. The revisionist has not brought on record any material to demonstrate that the said order was subsequently recalled or that the suit was restored and adjudicated on its merit. Thus, the revisionist was estopped from contending that respondent no.2 is not his legally wedded wife as the Suit No.96 of 2022 stood dismissed and there is no order of any competent civil court declaring the marriage of revisionist and respondent no.2 as null and void.

13. This Court is conscious of the legal position that, ordinarily, in order to claim maintenance under Section 125 Cr.P.C., the claimant must establish the requisite marital relationship contemplated by the

provision. At the same time, the proceedings under Section 125 Cr.P.C. are summary in nature and the court is required to consider the material placed before it for determining whether the claimant has established the relationship and her entitlement to maintenance on the basis of the evidence available on record.

14. In the present case, the learned Family Court, after considering the oral as well as documentary evidence produced by the parties, has recorded a finding in favour of respondent no.2 regarding the relationship between the parties. The revisionist has not been able to demonstrate that the said finding is based on no evidence or that the learned Family Court has ignored any material piece of evidence having a direct bearing upon the controversy. Merely because another view may be possible on appreciation of the evidence would not, by itself, justify interference in exercise of revisional jurisdiction.

15. So far as the contention regarding the quantum of maintenance is concerned, the learned Family Court has assessed the earning capacity and financial status of the revisionist on the basis of the material and evidence available before it. The mere

absence of a salary slip or other documentary evidence cannot, by itself, render the finding regarding income wholly unsustainable, particularly when oral evidence regarding the earning of the revisionist was available before the court. There is no material has been brought to the notice of this Court to demonstrate that the amount of ₹20,000/- per month awarded by the learned Family Court is so excessive or arbitrary as to warrant interference in revision.

16. The reliance placed by learned counsel for the revisionist upon the judgment in Yamunabai Anantrao Adhav (supra) also does not advance his case in the facts of the present matter. The said judgment has to be considered in the factual and legal context in which it was rendered. In the present case, the learned Family Court, upon appreciation of the evidence, has recorded a finding regarding the relationship between the parties, and the revisionist has failed to demonstrate any patent illegality, perversity or material irregularity in such finding warranting interference by this Court in revisional jurisdiction.

17. The fact that the revisionist and his family members were acquitted in the criminal case lodged by

respondent no.2, or that the prosecution may not have succeeded in establishing the charge beyond reasonable doubt, by itself, cannot be treated as conclusive determination of the parties' matrimonial status for the purpose of proceedings under Section 125 Cr.P.C. The standard and nature of appreciation of evidence in a criminal trial and in a summary proceeding for maintenance are distinct.

18. On an overall consideration of the matter, this Court finds that the impugned judgment and order dated 16.12.2025 does not suffer from any patent illegality, perversity or jurisdictional error warranting interference by this Court in exercise of revisional jurisdiction. The findings recorded by the learned Family Court are based upon the material available on record and do not call for interference.

19. Accordingly, the criminal revision is dismissed. The judgment and order dated 16.12.2025 passed by the learned Judge, Family Court, Uttarkashi in Misc. Criminal Case No.11 of 2023 is hereby affirmed.

20. No order as to costs.

(Alok Mahra, J.)
10.09.2026

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MAMTA RANI

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