



2026:AHC:203794

[RESERVED]

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 7800 of 2025

XXXXXX

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Devdeep Malviya
Counsel for Opposite Party(s): Ashutosh Upadhyay, G.A., Sujeet Kumar

Court No. - 85

HON'BLE JAI KRISHNA UPADHYAY, J.

1. Heard Shri Devdeep Malviya, learned counsel for the revisionist Shri Ashutosh Upadhyay, learned counsel for the opposite party No. 2 and learned AGA for the State.

2. The present criminal revision under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.) has been preferred by the revisionist, XXXXXX, challenging the legality, propriety, and correctness of the order dated 01.10.2025. The impugned order was passed by the learned Principal Judge, Family Court, Sambhal situated at Chandausi in Case No. 924 of 2024 XXXXXX vs. XXXXXX). Vide the said order, the trial court allowed the application for maintenance preferred by Opposite Party No. 2 (the wife) under the relevant provisions of the law akin to Section 125 of the Code of Criminal Procedure, 1973.

3. The factual matrix, insofar as it is relevant for the adjudication of the present revision, is that the marriage between the revisionist and Opposite Party No. 2 is admitted. However, due to marital discord, the parties began residing separately. Opposite Party No. 2 subsequently initiated proceedings for maintenance, pleading that she is unable to maintain herself, while the revisionist, possessing sufficient means, has neglected and refused to maintain her.

4. The fulcrum of the revisionist's challenge to the impugned order rests on the statutory disqualification against the grant of maintenance. The learned counsel for the revisionist vehemently contends that Opposite Party No. 2 left the matrimonial house without any sufficient or justifiable ground. Furthermore, it is the primary assertion of the revisionist that the wife is "living in adultery" with an advocate, and thus, the express bar contained in the statute applies to dis-entitle her from claiming any maintenance.

5. To substantiate this allegation of adulterous conduct before the Family Court, the learned counsel for the revisionist placed heavy reliance upon certain electronic records, specifically printouts of Instagram chats alleged to have taken place between Opposite Party No. 2 and the said advocate. The learned counsel submits that these chats establish the adulterous relationship between them.

6. Per contra, the learned Additional Government Advocate (A.G.A.) appearing for the State, alongside the counsel for Opposite Party No. 2, has strenuously opposed the revision. It is submitted that the statutory provision for maintenance is a beneficent, social-welfare legislation designed to prevent vagrancy. It is further argued that the phrase "living in adultery" implies a continuous course of adulterous conduct, not mere isolated interactions or unsubstantiated suspicions. Most crucially, the respondents argue that the unverified Instagram chats, devoid of mandatory statutory certification under the evidence laws, are entirely inadmissible and cannot form the basis for denying a destitute wife her right to sustenance.

7. Having heard the rival contentions at length and upon a meticulous perusal of the trial court record, the core issue that warrants determination by this Court is the scope and standard of proof required to establish the ground of "living in adultery" under maintenance laws.

8. To adjudicate upon the correctness of the findings recorded by the Family Court, it is imperative to first consider the fundamental object of the law of maintenance. The basic idea behind the grant of maintenance is to ensure that neglect and destitution are prevented for people who are unable to provide for themselves. It imposes an

obligation under law upon those who have sufficient means to provide for their dependents who are unable to maintain themselves. This law is intended to ensure that individuals have the means to secure the essential aspects of a dignified life, implementing accountability for those who ignore their familial responsibilities.

9. Proceedings of this nature are inherently summary, designed to be speedy, and are aimed at avoiding difficulty on the part of the seeking party to prevent vagrancy. The Hon'ble Supreme Court has consistently held in a catena of decisions, including **Dukhtar Jahan v. Mohd. Farooq (1987) 1 SCC 624 and Rajnesh v. Neha (2021) 2 SCC 324**, that these provisions are oriented towards social justice and must be interpreted liberally keeping the desired beneficent goal in view. Furthermore, these proceedings are essentially civil in nature; thus, while the standard of proof is not 'beyond reasonable doubt' as in strict criminal matters, the burden of establishing statutory disqualifications rests entirely upon the party alleging them.

10. The statute provides a specific exception to this general rule of maintenance: no wife shall be entitled to receive an allowance for maintenance if she is "living in adultery", or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

11. The legislative mandate requires careful interpretation of the phrase "living in adultery." The terminology consciously employed by the legislature is "living in", which fundamentally denotes a continuous, ongoing, and habitual course of adulterous conduct. It does not encompass a single, fleeting lapse, nor can it be inferred from mere conversational interactions, professional associations, or unsubstantiated suspicions. For a husband to successfully non-suit a wife's claim for maintenance at the threshold, he must present clear and cogent evidence that ex-facie establishes this continuous adulterous conduct.

12. In the present case, the sole foundation of the revisionist's claim of adultery is digital evidence in the form of Instagram chats. This brings the Court to the crucial aspect of the admissibility and evidentiary value of electronic records.

13. It is a settled proposition of law that the admissibility of electronic evidence must be tested strictly at the anvil of Section 65-B of the Indian Evidence Act, 1872. In the landmark decision of **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020) 7 SCC**, a three-judge bench of the Hon'ble Supreme Court clarified the mandatory nature of this statutory requirement.

14. It was further reiterated in the said judgment, following the ratio in **Anvar P.V. v. P.K. Basheer 2014 (10) SCC 473**, that the statutory certificate is a mandatory condition precedent to the admissibility of evidence by way of an electronic record. Secondary evidence of electronic records is admissible only if led in the strict manner stated in the statute, and not otherwise.

15. The necessity for such strict verification stems from the inherent vulnerabilities of digital data. As observed by the Apex Court in various pronouncements dealing with electronic evidence and private investigations, there is an ever-present danger regarding the authenticity of such material.

16. Applying these settled legal principles to the facts at hand, it is evident that the Instagram chats produced by the revisionist are not supported by the mandatory statutory certification. In the absence of such a certificate, it would be entirely incorrect in law to treat this electronic evidence as admissible.

17. Even if, for the sake of argument, the contents of the unverified chats were to be perused, mere text messages on a social media platform, without corroborative evidence of physical intimacy or cohabitation, are thoroughly insufficient to legally establish that the wife is continuously "living in adultery". The burden lies heavily upon the revisionist to prove a continuous adulterous lifestyle, which he has failed to discharge.

18. Hence, I'm of the view that the learned Principal Judge, Family Court, has rightly evaluated the material on record. The impugned order does not suffer from any jurisdictional error, material irregularity, or perversity that would warrant the interference of this Court in its revisional jurisdiction. The Family Court correctly prioritized the beneficent nature of the maintenance provision.

19. In view of the aforesaid detailed discussion, this Court finds no merit in the present criminal revision.

20. The Criminal Revision is, accordingly, dismissed. The impugned order dated 01.10.2025 passed by the Principal Judge, Family Court, Sambhal situated at Chandausi in Case No. 924 of 2024 is hereby affirmed.

21. Let the copy of the this order be sent to the learned trial court for necessary compliance.

September 29, 2026
Priyanka

(Jai Krishna Upadhyay,J.)