

**Kunwersen Vs. State of Uttar Pradesh**

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**SooperKanoon Citation :** [sooperkanoon.com/484298](http://sooperkanoon.com/484298)

**Court :** Allahabad

**Decided On :** Aug-19-1997

**Reported in :** II(1997)DMC520

**Judge :** G.S.N. Tripathi, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125

**Appeal No. :** Criminal Revision No. 848 of 1994

**Appellant :** Kunwersen

**Respondent :** State of Uttar Pradesh

**Advocate for Def. :** Shesh Kumar, A.G.A.

**Advocate for Pet/Ap. :** Satish Trivedi, Adv.

**Disposition :** Petition dismissed

**Judgement :**

**G.S.N. Tripathi, J.**

1. This is a revision Under Section 397, Cr. P.C. against the judgment and order dated 21.4.1994 passed by the Judge, Family Court, Bareilly in a petition Under Section 125, Cr.P.C, being Criminal Misc. No. 985 of 1992, Smt. Premwati v. Kunwersen, whereby the learned Family Court allowed the petition for

maintenance to the wife and has awarded Rs. 300/- for her maintenance and Rs. 150/- for each of the four children w.e.f. 19.12.1992, the date of the petition.

2. Smt. Premwati, O.P. No. 2 filed a petition Under Section 25, Cr. P.C. before the Family Court., Bareilly, in which she claimed that she is the wife of the revisionist Sri Kunwersen and out of this wedlock, four children were born to the couple. Thereafter, the revisionist deserted her. She is unable to maintain her, whereas, the revisionist gets more than Rs. 2500/- p.m., being an employee of the Railway Deptt. He has failed to maintain her.

3. The written statement filed by the revisionist dated 16/17.9.1992, contains denial that the petitioner is the wife and the four children are his issues with the petitioner. In fact, he is married to Smt. Ram Beti and he never married with petitioner. The petitioner had filed an earlier petition Under Section 125, Cr.P.C, which is found to be false. She has played a fraud and, therefore, she should be punished for that.

4. The learned Trial Court found that the petitioner was and is the legally wedded wife of Mr. Kunwersen, revisionist. She has been deserted alongwith her four children and, therefore, all of them are entitled to the maintenance as noted above. Consequently, the petition was allowed. Feeling aggrieved, the husband- petitioner has filed this revision.

6. I have heard Mr. K.N. Rana, learned Counsel for the revisionist and also Mr. M.S. Haq, learned Counsel for the O.P. No. 2, and perused the record. I find that there is absolutely no force in this revision and, it deserves to be dismissed. In order to prove her case, Smt. Premwati, O.P. No. 2, has been examined as P.W.I. In her statement, she has narrated the entire story, including the fact that she is unable to maintain herself and her children. She denies that she is the wife of Mr. Tej Ram, the brother of the revisionist. She has been robustly supported by Mr. Vidya Ram, her father, P.W. 2.

7. P.W.2, Mr. Vidya Ram has said that the revisionist is his real son-in-law, with whom the petitioner was married. He does not know anything about the marriage of Mr. Kunwersen with any other lady than the petitioner Smt. Premwati. As

against it, the revisionist has examined himself and another witness in support of the case.

8. After perusal of the entire evidence and circumstances on the record, the learned Trial Court came to the conclusion that the petitioner was and is the legally wedded wife of the revisionist and all the four children were born out of this wedlock. He has recorded a categorical finding that the revisionist was guilty of deserting her and her children and she has no means to maintain herself, whereas, the revisionist is very well paid of.

9. Thus the clearcut finding of fact recorded by the learned Trial Court that the petitioner is the legally wedded wife of the revisionist Mr. Kunwersen and all the 4 children were born to her out of their wedlock, cannot be upset normally in a revision specially when it finds support from oral as well as documentary evidence. There are certain circumstances which tellingly show that the revisionist has no case. Admittedly, in his Life Insurance Policy, the revisionist has shown Smt. Premwati as his heir. There is absolutely no explanation for that as to why and how Smt. Premwati came in the picture, as she was totally a stranger, according to the revisionist.

10. Another telling fact is that Mr. Tej Ram is the real brother of the revisionist. He should have been examined in support of the revisionist to show that the petitioner is the real wife of Mr. Tej Ram and not of the revisionist. For the reasons best known to the revisionist, Mr. Tej Ram has not been examined. It has not been alleged by the revisionist that there has been any enmity with the Mr. Tej Ram. Therefore, non-production of Mr. Tej Ram shows that the revisionist has no case and his case that the petitioner is the wife of Mr. Tej Ram, is totally false.

11. The father of the revisionist Mr. Chaddammi Lal has been examined in the Court. He says that it is wrong to say that Smt. Premwati's another name is Smt. Ram Beti. This is the crux of the revisionist's case that the real name of petitioner is Smt. Ram Beti and not Smt. Premwati. Had it been a fact, the father of the petitioner should have retaliated it and disowned the same. Further, he pleads ignorance regarding the fact that in the departmental papers, the name of the petitioner has been recorded as a nominee of the revisionist. Thus Mr.

Chaddammi Lal wants to escape from the consequences of the case. The learned Trial Court has rightly disbelieved his testimony and also that of his worthy son Mr. Kunwersen. Both are sailing in the same boat.

12. In order to harass the petitioner, the revisionist filed a complaint case Under Sections 419/420, IPC, which has been dismissed. He says that Smt. Premwati had filed an earlier petition u /Sec. 125, Cr. P.C. against Mr. Tej Ram. The record relating to the case has not been filed in this or the Trial Court. The revision has no force. It is, accordingly, dismissed. The revisionist shall pay the entire balance of the decretal amount to the O.P. No. 2 at once as per judgment of the learned Trial Court dated 21.4.1994 failing which same shall become recoverable.

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