

**Smt. Mamta Devi Vs. State and anr**

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**SooperKanoon Citation :** [sooperkanoon.com/919393](http://sooperkanoon.com/919393)

**Court :** Uttaranchal

**Decided On :** Sep-03-2010

**Judge :** Prafulla C. Pant, J.

**Acts :** Code of Criminal Procedure (CrPC) - Section 125;

**Appeal No. :** Criminal Revision No. 227 of 2005

**Appellant :** Smt. Mamta Devi

**Respondent :** State and anr

**Judgement :**

1. This revision is directed against judgment and order dated 05.11.2005, passed by Judge Family Court, Udham Singh Nagar, in Criminal Miscellaneous Case No. 19 of 2000, whereby said court dismissed the application moved under section 125 of Code of Criminal Procedure, 1973, (for short Cr.P.C), by the revisionist.

2. Heard learned counsel for the parties.

3. Brief facts of the case are that revisionist filed an application under section 125 Cr.P.C., claiming maintenance at the rate of Rs. 5,000/- per month alleging that Ram Bharosey Lal was her husband and earns Rs. 10,000/-. It is further pleaded by the revisionist in the application that she is unable to maintain herself as such she be awarded Rs. 5,000/- per month as maintenance.

4. The respondent no. 2 contested the application and pleaded that he is 60 years old man who lives with his wife and children. He has further pleaded that he has grand children also. He denied his marriage with the revisionist Mamta Devi. It is pleaded by the respondent no.2 in his reply that revisionist was maid -servant who is a married woman having her own children. She was ousted from the job by the respondent no.2 and payment of her salary was made to her.

5. The trial court after recording evidence, and hearing the parties, found that revisionist was married to one Gopal Singh and she had two daughters from said husband. The trial court further found that said marriage had not been dissolved. In the circumstances, the trial court found that the revisionist is not entitled for maintenance under section 125 Cr.P.C.

6. Having heard learned counsel for the parties, and after going through the papers on record, this Court finds that in the cross-examination the revisionist had admitted before the trial court that she was firstly married to another man whose name is Gopal Singh. He is resident of Kashipur. She further pleaded that she had two daughters from said husband. In the circumstances, unless revisionist is able to show that her first marriage was dissolved, she cannot be said to be entitled to maintenance from another man, particularly when such person has categorically denied his marriage with the revisionist. The revisionist has not disclosed the fact relating to her subsisting marriage with Gopal Singh in her application.

7. In the above circumstances, the trial court has committed no illegality in rejecting the application under section 125 Cr.P.C. Accordingly, the revision is dismissed.

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