

**Rangnath Vs. Smt. Indira**

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**Court :** Mumbai

**Decided On :** Oct-12-1995

**Reported in :** I(1996)DMC462

**Judge :** R.M. Lodha, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125; [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 24 and 115

**Appeal No. :** Civil Revn. Application No. 149 of 1994

**Appellant :** Rangnath

**Respondent :** Smt. Indira

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** Shabbir Hussain, Adv.

**Disposition :** Application dismissed

**Judgement :**

**R.M. Lodha, J.**

1. Taking exception to the order passed by the 2nd Joint Civil Judge, Senior Division, Nagpur on 25.11.1983 directing the present applicant to pay maintenance pendente lite to the non-applicant herein at the rate of Rs. 500/- per

month, the present Revision Application has been filed by the applicant.

2. Mr. Shabbir Hussain, the learned Counsel for the applicant Rangnath (for short 'the husband') submits that the Court below did not take into consideration the fact that the husband was paying maintenance to the non-applicant Smt. Indira Rangnath Jeevanapurkar (for short 'the wife') at the rate of Rs. 300/- per month under Section 125 Cr.P.C. by virtue of the order dated 24.9.1991 passed by the learned Judicial Magistrate First Class, 4th Court, Nagpur.

3. Mr. Shabbir Hussain, the learned Counsel for the husband further submit that the applicant husband is an employee in Maharashtra State Electricity Board as Assistant Inspector and his carry home salary is Rs. 1269/-. Mr. Shabbir submits that though salary of the applicant is Rs. 3739/-, but after deductions, he only gets a sum of Rs. 1269/- and therefore, award of maintenance at the rate of Rs. 500/- is expensive. I have considered the contentions raised by Mr. Shabbir Hussain, the learned Counsel for the applicant and in my view, none of the contentions raised by the learned Counsel has any merit. The amount of maintenance payable by the husband under Section 125 Cr.P.C. is always subject to adjustment in the amount of maintenance awarded by the Civil Court either finally or by way of maintenance pendente lite and therefore, the amount of Rs. 300/- per month which the applicant husband is paying to the wife under the orders of the Criminal Court shall be adjusted in the maintenance awarded to the wife by the Civil Court in the proceedings under Section 24 C.P.C. As regards the quantum of maintenance awarded by the Trial Court, ordinarily the Court in revisional jurisdiction exercising its jurisdiction under Section 115 C.P.C. does not interfere with the quantum of maintenance awarded by the Court under Section 24 C.P.C. Not only that the award of maintenance pendente lite at the rate of Rs. 500/- per month is just and reasonable, but also proper in the facts and circumstances of the case. Admittedly, the applicant husband is in employment of M.S.E.B., as an Assistant Inspector and his gross salary is more than Rs. 3600/- According to the applicant-husband, the gross salary is deducted by about Rs. 2,300/- and he gets only Rs. 1269/- as carry home salary. In view of the gross salary of the applicant husband which is more than Rs. 3000/- the award of maintenance pendente lite at the rate of Rs. 500/- is imminently just and proper warranting no interference by this Court in the

Revisional Jurisdiction. The Court below has not acted illegally or with material irregularity in exercise of its jurisdiction in passing the impugned order and if the impugned order is allowed to stand, it would not occasion any failure of justice to the applicant. The order passed by Court below advances cause of justice warranting no interference.

4. Consequently, there is no merit in this Civil Revision Application and the same is dismissed with no order as to costs.

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