

B. Chaya Devi and ors. Vs. B. Prabhakar Reddy and anr.

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SooperKanoon Citation : sooperkanoon.com/431031

Court : Andhra Pradesh

Decided On : Feb-17-1993

Reported in : 1993(1)ALT(Cri)550; I(1994)DMC23

Judge : Subhashan Reddy, J.

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

Appeal No. : Criminal Revision Petition No. 425 of 1990

Appellant : B. Chaya Devi and ors.

Respondent : B. Prabhakar Reddy and anr.

Advocate for Def. : C. Sadasiva Reddy, Adv. and ;Public Prosecutor

Advocate for Pet/Ap. : C.B. Rammohan Reddy and ;D.L. Kiran Prakash, Advs.

Judgement :

Subhashan Reddy, J.

1. This Criminal Revision Case is filed against the reversing order of the Court of Sessions reducing the maintenance granted in favour of petitioners 1, 2 and 3 herein from Rs. 250/-, 150/-, 150/-per month to Rs. 150/-, Rs. 100/-, Rs. 100/~ per month respectively.

2. The reasons given for reducing the maintenance amount is that first respondent herein has got a brother to be educated, as such he is incurring expenditure. This reasoning is extraneous as the brother is not one of the dependants as contemplated under Section 125 of Criminal Procedure Code. When a person is being maintained not as of a right, but by way of mercy or otherwise, he cannot be called as a legal dependant, which Section 125 of Criminal Procedure Code comprehends such being the legal position, the fact of first respondent herein maintaining his brother is not relevant for reducing the quantum of maintenance, granted in the instant case. As such, I set aside the reversing order passed by the Court of Sessions, in Crl.R.P. No. 16 of 1989 and restore the order passed by the Court of First Additional Judicial First Class Magistrate, Kurnool. There is yet another aspect to be considered is with regard to continuance of maintenance to the first petitioner, as she is appointed as a Police Constable during the month of October, 1991. If that be so, her salary will not be less than Rs. 1,000/-per month and the maximum quantum of maintenance which can be granted is only Rs. 500/- in all. In that case, the first petitioner will be legally, disentitled to claim maintenance from the first respondent, but not from the institution of the case, but only from 1.1.1992 as she was employed immediately before that cut off date. In the circumstances, I hold the following :

(1) The first petitioner shall be entitled to maintenance at the rate of Rs. 250/- per month from the date of petition before the Court of Magistrate upto 31.12.1991 and not thereafter ;

(2) The petitioners 2 and 3 shall be entitled to the maintenance at the rate of Rs. 150/- per month each to tailing to Rs. 300/-per month right from the date of petition before the Court of Magistrate;

(3) The first respondent shall clear of all the arrears by the end of May, 1993 and he shall pay Rs. 300/- per month i.e., Rs. 150/- to each of the petitioners 2 and 3 regularly within 10th of every calendar month commencing from March 1993.

3. This Criminal Revision Case is allowed in part of the extent indicated above.

