

Ram Rati Vs. Satya Narain

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Court : Allahabad

Decided On : Feb-25-1993

Reported in : II(1993)DMC396

Judge : S.N. Sahay and ;B.C. Saksena, JJ.

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

Appeal No. : First Appeal No. 75 of 1992

Appellant : Ram Rati

Respondent : Satya Narain

Judgement :

S.N. Sahay, J.

1. This is an appeal against the order dated 8-8-1990 passed by the learned Additional Principal Judge, Family Court, directing the respondent to pay Rs. 200/- per month towards maintenance to the appellant from the date of the application under Section 125 Cr. P.C. that is 13-10-1980 subject to the adjustment of the interim maintenance, if any already received by the appellant from the respondent.

2. We have heard the learned Counsel for the parties. The only contention of the appellant in this appeal is that the quantum of maintenance awarded by the Family Court is very low. The appellant has prayed that the maintenance may be awarded

to her at the rate of Rs. 800/- per per month, but a meagre sum of Rs. 200/- per month only has been granted. It has been found by the Family Court that the respondent is working as a teacher in Ram Bharose Inter College, Telibagh, Lucknow in L.T. Grade and is getting Rs. 2,000/- per month as his total salary, but after deduction he gets only Rs. 1,400/- per month. It has been also found that the appellant has no independent source of income. There can be no doubt that the cost of living has increased in recent times considerably and it will be difficult for the appellant to maintain herself with a paltry sum of Rs. 200/- per month only. It has been brought to our notice that the parties are living in the same house, although separately. The husband is living in the upper portion and the wife on the ground floor. After taking into consideration the entire facts and circumstances, we are of opinion that it will meet the ends of justice if the respondent is directed to pay Rs. 400/-per month as maintenance to the appellant with effect from the date of the application under Section 125 Cr, P.C. It may be added that interim maintenance was also allowed to the appellant by the Family Court at the rate of Rs. 400/- per month. In Smt. Saroj Devi v. Krishn Murari, 1980 A.L.J. 470 a learned Single Judge has taken the view that an amount which constitutes only one third of the income of the husband is by no means an excessive amount of maintenance permitted to the wife.

3. It is remarkable that the maximum amount of maintenance, that can be awarded under Section 125 Cr. P.C. is Rs. 500/- per month irrespective of income and status of the parties. The Code of Criminal Procedure was enacted in 1973 and came into force on April 1, 1974. Since then there has been a colossal rise in prices and the cost of living has increased beyond imagination and the upward inflationary trend has not been arrested so far. There is a need for revision of the said provision and it is worth considering whether the provisions of Sections 125 and 127 should be suitably amended in such manner that the bar as to maximum amount of maintenance is removed and it is left to the judicial discretion of the Court to determine the amount of maintenance payable to a person entitled therefore under the said provisions having regard to the income, status and all other relevant facts and circumstances of the case. The amount of maintenance should be commensurate to the earning capacity of the husband or father as the case may be.

4. The appeal is partly allowed and the order dated 8-8-1990 passed by the Family Court is modified to this extent that the respondent shall pay Rs. 400/- per month towards maintenance to the appellant with effect from 13-10-1980 subject to adjustment of maintenance, if any, already received by her on account of interim-maintenance or maintenance under the order under appeal.

5. Copy of this judgment may be sent to the Central Government and to the State Government for consideration and necessary action.

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