

Lalit Amonatya Vs. Dimabati Amonatya

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Court : Orissa

Decided On : Mar-14-1989

Reported in : I(1990)DMC100

Judge : L. Rath, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125(1)

Appeal No. : Crl. Rev. No. 118 of 1985

Appellant : Lalit Amonatya

Respondent : Dimabati Amonatya

Advocate for Def. : None

Advocate for Pet/Ap. : J. Patnaik and H.N. Dhal

Disposition : Revision dismissed

Judgement :

L. Rath, J.

1. This revision arises out of an order passed under Section 125(1) Cr.P.C. directing the petitioner to pay maintenance of Rs. 75/- per mouth to the opposite party.

2. Mr. Dhal appearing for the petitioner urges solely regarding the quantum or maintenance payable to the opposite party. Admittedly, opposite party is the wife of the petitioner and the finding of the learned Magistrate that she is compelled to live separately because of the ill-treatment and neglect of the petitioner is not assailed. It is however the submission of Mr. Dhal that since the petitioner led evidence of his monthly income in the average to be Rs. 100/-, grant of maintenance of Rs. 75/- per month is highly excessive. Such a contention raised before the learned Magistrate has been negatived he being of the view that the quantum of maintenance is necessary to be fixed as is required by the wife to maintain a standard of living which is neither luxurious nor penurious, but is modestly consistent with the status of the family and that on such consideration the need would not be less than Rs. 74/- a month. There is no evidence that the petitioner is not capable of earning more. If an able-bodied man capable of earning more without any lawful excuse does not earn enough as is expected of him, it is not a ground for reduction of the quantum of maintenance payable to the wife. In these days, a sum of Rs. 75/-per month is grossly inadequate as a maintenance amount for any standard of living. In that view of the matter, I do not find any reason to interfere with the impugned order.

3. Mr. Dhal next makes submission that the petitioner is willing to maintain the opposite party. Such a factor is not available to be considered by this court and if so advised the petitioner may take steps for the relief available to him under the proviso to Section 125(3) and Sub-sections (4) and (5) of the Section.

The revision is dismissed.