

Nirmala Devi Vs. Jagdish Kumar

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Court : Delhi

Decided On : Feb-10-1993

Reported in : 1993(25)DRJ524

Judge : Sat Pal, J.

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

Appeal No. : Criminal Revision Appeal No. 243 of 1982

Appellant : Nirmala Devi

Respondent : Jagdish Kumar

Judgement :

Sat Pal, J.

(1) This case has been called for hearing and even at 2.40 Pm none is present on behalf of the petitioner or for the respondent. However, I proceed to dispose of the case on merits on the basis of records before me.

(2) In the present case, the Metropolitan Magistrate vide his order dated 3rd October, 1980 fixed the maintenance allowance of Smt. Nirmala Devi who is the petitioner in the present case at Rs.200- per month. The order passed by the learned Metropolitan Magistrate was challenged by Jagdish Kumar, the respondent herein, in Cri. R. 34/80. The said revision petition of the husband was

allowed by the learned Addl. Sessions Judge, Delhi vide his order dated 6th August, 1982. The learned Addl. Sessions Judge held that the marriage between the parties was not solemnised according to the Hindu Rites. Accordingly, the revision of the husband was allowed and the petition of the Nirmala Devi under Section 125 Cr.P.C. was dismissed.

(3) Aggrieved by the Judgment dated 6th August, 1982 passed by the Addl. Sessions Judge, Delhi the petitioner has filed the present petition. It has been stated in the petition that the marriage between the parties was performed by way of 'Anand Karaj' which is a Hindu Rite of marriage. During the pendency of the petition, certain documents have also been filed on behalf of the petitioner which include the marriage invitation Card alleged to be on behalf of Shri Shiv Dutt Pasricha who was the father of Jagdish and another marriage invitation Card on behalf of Smt and Shri Kanhiya Lal Virmani, parents of Nirmala Rani. In both the invitation cards the marriage was fixed for 6th June, 1979.

(4) In the petition, inter alia, it has been contended that for the purpose of granting maintenance allowance under Section 125 Cr.P.C., the Court cannot go into the question of full and final determination of the status and personal rights of the parties. In support of this contention, reliance has also been placed on a Judgment of the Supreme Court in Shri Bhagwan Dutt Vs Smt. Kamla Devi 1975 SSC. 563. I have perused this judgment. In this case the Supreme Court held that the object of Section 125 (Section 488 of the old code) is to compel a man to perform the moral obligation which he owes to society in respect of his wife and children. By providing a simple, speedy but limited relief, they seek to ensure that the neglected wife and children are not left beggared and destituted on the scrap-heap of society and thereby driven to a life of vagrancy, immorality and crime for their subsistence. Thus, Section 488 is not intended to provide for a full and final determination of the status and personal rights of the parties. Thus it is clear that Section 125 is not intended to provide for a full and final determination of the status of the parties. The learned Addl. Sessions Judge thus exceeded his jurisdiction to decide the matrimonial status of the parties in the proceedings under Section 125 Cr.P.C.

(5) In view of the above discussion, the Revision petitioner is allowed, the order dated 6th August, 1982 passed by the learned Addl. Sessions Judge is set aside and the order dated 3rd October, 1980 passed by the learned M.M. is restored.

(6) Since the parties have not appeared before me, they are left to bear their own costs.

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