

Mst. Vidya Devi Vs. Basant Kumar and anr.

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Court : Rajasthan

Decided On : Dec-14-1982

Reported in : 1982WLN(UC)322

Judge : Kanta Bhatnagar, J.

Appeal No. : S.B. Criminal Revision No. 216/78

Appellant : Mst. Vidya Devi

Respondent : Basant Kumar and anr.

Disposition : Petition dismissed

Judgement :

Kanta Bhatnagar, J.

1. Petitioner Smt. Vidya Devi had filed an application under Section 125 of the Cods of Criminal Procedure against her husband Basant Kumar for maintenance for her self and her minor son and daughter. By the order dated 6th December, 1976, the learned Munsif and Judicial Magistrate, Sri Ganganagar allowed and application and passed an order or a monthly amount of Rs. 75/- per month for the petitioner and Rs. 30/- each for her son and daughter.

2. Being aggrieved by the order dated 6th December, 1976 the non-petitioner Basant Kumar preferred a revision petition in the Court of the Additional Sessions

Judge, Sri-Ganganagar. The learned Additional Sessions Judge partly allowed the revision petition and reduced the amount of Rs. 75/- per month to Rs. 50/- to be payable to the petitioner Smt. Vidya Devi.

3. Being dissatisfied by this reduction in her amount of maintenance Smt. Vidya Devi has preferred this revision petition in this Court.

4. The point to be determined in this revision petition is a short one i.e. whether the order of reduction of the amount is illegal or improper.

5. The learned Counsel for the petitioner strenuously contended that the amount of Rs. 75/- per month in itself was not sufficient for the maintenance of the petitioner and further reduction in that amount will put her in a position of starvation. The learned Counsel for the petitioner has contended that the trial Court has held the income of the husband non-petitioner to be about Rs. 240/- per month. That, the total amount payable according to the order of the learned Magistrate to the wife and the two children was Rs. 135/- only whereas Rs. 105/- were still left with the husband to maintain himself alone. The learned Counsel for the petitioner therefore, urged that the interference by the Addl. Sessions Judge in the order passed by the learned Magistrate was not called for.

6. The learned Counsel for the non petitioner submitted that the non-petitioner is in such a poor financial position that even the amount ordered to be paid by the Addl. Sessions Judge, could not be arranged by him and he had to suffer in imprisonment for that reason.

7. The learned Counsel for the petitioner did not dispute the position that nothing could be recovered from the non-petitioner towards the amount of maintenance and therefore, he had to be sent to suffer imprisonment for that reason.

8. In view of the facts and circumstances of the case and the meagre income of the husband, if the learned Additional Sessions Judge has reduced the amount of maintenance of the petitioner from Rs. 75/- to Rs. 5(sic)/- per month by maintaining the amount of Rs. 60/- for the two children as such the order cannot be said to be improper.

9. The revision petition having no merits is, therefore, dismissed.

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