

Vijaya Vs. Raman

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Court : Chennai

Decided On : Nov-16-1996

Reported in : I(1997)DMC67

Judge : Karpagavinayagam, J.

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

Appeal No. : Criminal Revision No. 362 of 1988

Appellant : Vijaya

Respondent : Raman

Advocate for Def. : None

Advocate for Pet/Ap. : V. Venkatesan, Adv.

Disposition : Petition allowed

Judgement :

Karpagavinayagam, J.

1. The petitioner wife filed an application for maintenance in M.C. No. 1 of 1986 on the file of the Judicial First Class Magistrate, Dharapuram. The Magistrate after consideration of the materials produced by both the wife and the husband awarded a maintenance of Rs. 150/- per month. Aggrieved over this order, the

respondent husband filed a Revision in C.R.P.No. 18 of 1997 on the file of the Sessions Court at Erode. After thorough perusal of the records the Sessions Court held that she is entitled to maintenance, but however, he reduced the maintenance amount of Rs. 150/- to Rs. 100/- per month. As against the order of reduction of the maintenance amount this revision has been preferred by the petitioner wife.

2. I heard Mr. Venkatesan, Counsel appearing for the petitioner. The respondent, though summons were served; did not choose to be present before this Court.

3. The petitioner wife was married to the respondent about ten years back; but no child was born. After sometime, the respondent husband did not take care to maintain the wife and he became drunkard and having connection with other ladies. He also tortured the wife asking her to get cash and jewels from her parents. Ultimately she was driven out from the house by the husband. The case of the husband is that the wife voluntarily left the matrimonial home and living separately without any justifiable cause. It is also his case that in spite of the Panchayat held in this regard and the Panchayadhars asked her to go and live with the husband, the wife did not heed to the request and was not willing to come and live with the respondent. However, both the Courts below considered that the petitioner wife has got a justifiable reason to live separately, since there was torture on the part of the husband against the wife. The only point to be considered in this revision is whether the amount of Rs. 100/- per month would be sufficient or not. This aspect has been thoroughly considered by the lower Court in M.C. No. 1 of ^986 that though the claim of maintenance was Rs. 250/- fixing of the amount of Rs. 150/- per month would be proper, in view of the fact that she was also doing some cooly work. The finding that has been given by the Courts below with reference to the income derived by the husband is that the husband has got landed and house properties. So in that context the amount was fixed at Rs. 150/-. However in the present days of spiralling prices the amount of Rs. 100/- as fixed by the Sessions Court may not be sufficient to maintain herself. So the order of the Magistrate fixing the maintenance amount as Rs. 150/- is restored and the order passed by the Sessions Court by reducing the amount as Rs.100/- is set aside. In the result the Criminal Revision is allowed.

