

Sazid Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Jul-11-2011

Reported in : 2012AIR(NOC)100

Judge : S.C. Agarwal

Appeal No. : Criminal Misc. Writ Petition No. 12774 of 2011

Appellant : Sazid

Respondent : State of U.P. and Others

Judgement :

Heard learned counsel for the petitioner and learned A.G.A. for the State.

There is no need to issue notice to respondents no.2 and 3. Respondents no.2 and 3 filed an Application under section 125 Cr.P.C. being case no. 584 of 2010 Smt. Shamina and others Versus Sazid in the Court of Addl. Civil Judge (J.D.) / Judicial Magistrate, Saharanpur. Learned Magistrate vide order dated 24.1.2010 directed the petitioner to pay interim maintenance allowance at the rate of Rs.1000/- per month to his wife - respondent no.2 and Rs.500/- per month to his minor daughter - respondent no.3. Criminal Revision No.143 of 2011 filed by the petitioner was dismissed vide order dated 4.5.2011 passed by Addl. Sessions Judge, Court No.14, Saharanpur. Both the aforesaid orders are under challenge in this writ petition.

Learned counsel for the petitioner submitted that respondent no.2 is a divorced Muslim lady and she is not entitled to claim maintenance allowance from the petitioner.

In A.I.R. 2010 Supreme Court Cases 305 Shabana Bano Versus Imran Khan, the Apex Court has held as under :

29. Cumulative reading of the relevant portions of judgments of this Court in Danial Latifi (2001 AIR SCW 3932) (supra) and Iqbal Bano (2007 AIR SCW 3880) (supra) would make it crystal clear that even a divorced Muslim woman would be entitled to claim maintenance from her divorced husband, as long as she does not remarry. This being a beneficial piece of legislation, the benefit thereof must accrue to the divorced Muslim women.

In view of the aforesaid decision, it is clear that a divorced Muslim lady is entitled to claim maintenance from her husband as long as she does not remarry. Granting of maintenance allowance to respondents no.2 and 3 cannot be faulted with, as only a small sum of Rs.1000/- per month to wife and even lesser amount have been granted to the minor daughter as interim maintenance allowance. Considering all the facts and circumstances of the case, I do not find any good ground to interfere.

The petition lacks merit and is accordingly dismissed.

However, the learned Magistrate is directed to finally dispose of the application under section 125 Cr.P.C. expeditiously, if possible within a period of three months from the date a certified copy of this order is produced before him.

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