
(2008) 12 SC CK 0108

In the Supreme Court Of India

Case No : Criminal Appeal No. 1991 of 2008 (Arising out of SLP (Criminal) No. 1370 of 2008)

Manu Khanna (Minor) through his mother Dr. Poonam Khanna APPELLANT
Vs

V.P. Sharma and Another RESPONDENT

Date of Decision : 05-12-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2009) 1 JCR 178

Hon'ble Judges : R. V. Raveendran, J;D. K. Jain, J

Bench : Division Bench

Judgement

1. Leave granted. Heard the parties.
2. The appellant is the minor son of first respondent and Dr. Poonam Khanna. He is represented by his mother. While the appellant's mother claims that the appellant is mentally challenged, the respondent denies it. The appellant filed a petition u/s 125 of the Code of Criminal Procedure for maintenance. In the said proceedings, the learned Magistrate by his order dated 26.6.2006 directed the first respondent to pay interim maintenance of Rs. 5,000/- per month to the appellant.
3. The appellant challenged the order of the learned Magistrate by filing a Criminal Revision Petition before the High Court. The appellant contended that the sum of Rs. 5,000/- per month was inadequate and the interim maintenance should be higher. A learned Single Judge of the High Court by the impugned order dated 9.7.2007 considered the matter in detail and found no reason to interfere with the order of the learned Magistrate fixing Rs. 5,000/- per month as interim maintenance. He directed that the main petition itself should be proceeded with and disposed of by the learned Magistrate expeditiously, preferably within four months from that date. By subsequent order dated 16.11.2007, the time for disposal was extended upto 31.1.2008. The orders of the High Court are challenged by the appellant.

4. The appellant's mother, who appeared in person, submitted that the quantum of interim maintenance is inadequate both from the point of view of the need of the appellant and the income of the respondent. On the other hand, the respondent contended that the determination of Rs. 5,000/- per month as interim maintenance was proper and adequate. But nevertheless, he offered to pay Rs. 7,500/- per month subject to the final decision in the pending proceedings, to put an end to the issue. On the facts and circumstances, we are of the view that the said payment will be adequate and appropriate as interim maintenance.

5. The respondent submitted that the issue of visitation right so as to enable him to spend time with his son, is pending and that issue may be linked and considered with this issue. The appellant's mother contended that no such issue is pending. It is unnecessary to examine that question as that is not the subject matter of this appeal.

6. Though the order of the High Court was passed more than one year and five months ago, it is stated that the main matter is still pending before the learned Magistrate. If the parties had co-operated with the learned Magistrate, as directed by the High Court, the main matter itself would have been over by now. During arguments, the mother of the appellant (representing the appellant) and the father of the appellant displayed considerable acrimony towards each other and put forth contentions which are unnecessary to decide a simple interim maintenance issue. They also tend to bring in extraneous issues. The learned Magistrate shall deal with any request for adjournment sternly and restrict the parties strictly to the issue at hand, to ensure that the main case is completed at least by 31.3.2009.

7. We therefore dispose of this appeal by increasing the interim maintenance to Rs. 7,500/- per month from 1.12.2008 till final decision in the pending proceedings before the learned Magistrate. Both the parties shall extend full co-operation for the early disposal. It is made clear that the amount determined is purely as an interim measure and the learned Magistrate will decide the main maintenance petition without being influenced by any observation made by the High Court or this Court on the issue of the interim maintenance.