
(2009) 10 JH CK 0056
In the Jharkhand High Court

Rajeev Ranjan

APPELLANT

Vs

The State of Jharkhand and Rajni Kumari

RESPONDENT

Date of Decision : 06-10-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125
Family Courts Act, 1984 — Section 19

Citation : (2009) 10 JH CK 0056

Hon'ble Judges : Pradeep Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Pradeep Kumar, J.—Heard learned Counsel for the petitioner and learned Counsel for the State.

2. This application is directed against the order dated 19.12.2008 passed by Principle Judge, Family Court, Ranchi in Maintenance Case No. 110 of 2007 by which order after hearing both the parties the learned Principle Judge directed the petitioner-husband Rajeev Ranjan to pay Rs. 5000/- per month ad interim maintenance during the pendency of the petition u/s 125 of the Cr.P.C. as also to pay Rs. 10,000/- as litigation cost.

3. It is submitted by learned Counsel for the petitioner that the petitioner failed to give income of the husband and on a vague statement that the husband is earning Rs. 15000/- per month from his consultancy business and he has got his parental property granted the amount of Rs. 5000/- per month to the wife ad interim maintenance and also directed to pay Rs. 10000/- per month which is beyond his capacity, and as such the impugned order is bad and requires interference of this Court, otherwise it will not be possible for the petitioner to pay the same.

4. On the other hand the learned Counsel for the opposite party No. 2-wife Rajni Kumari has submitted that the impugned order is an interim order and as per the

judgment of this Court reported in 2005 (4) JLJR 202 case of Uttam Kumar Choubey the Hon"ble High Court, no Revision lies against the order of interim maintenance passed in a proceeding u/s 125 Cr.P.C. He also relied in a similar decision of Bombay High Court reported in 1992 Cr. Law Journal in the case of Smt. Mamta v. A.M. Vaidya.

5. He has also stated that as per Section 19 of the Family Court Act, alsb no revision or appeal against an interlocutory order, is maintainable.

6. In reply the learned Counsel for the opposite party had relied in a decision in Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others,

7. After hearing both the parties and going through the record I find that the impugned order is clearly interim order of maintenance passed by the Trial.Court. However since it is interim order the learned Court below has not come to any finding with regard to the income of the husband and rightly it has been held in the case of Uttam Kumar Choubey 2005 (4) JLJR 202 that the procedure of Chapter IX of the Cr.P.C. is a summary procedure and quick remedy by way of maintenance to save the destitute wife from starvation u/s 125 of the Cr.P.C. The Court is empowered to either modify or even cancel the order passed by him earlier at the final stage.

8. However, although an interim order has been passed but since it is submitted by learned Counsel for the petitioner that just prior to this order as admitted by the wife-complainant, in her evidence, she also herself filed in her counter affidavit that she received about more than rupees two lacs and as such it is not a case whether she is on the verge of starvation or in destitute condition. Hence some relief may be granted to the petitioner who is unable to make payment.

9. In that view of the matter impugned order is modified as per interim order passed on 01.05.2009 till final order is passed. Petitioner is directed to pay Rs. 3000/- per month as maintenance to the opposite party-wife and also to pay Rs. 5000/- litigation cost, the impugned order is accordingly modified to that extent.

10. With the aforesaid modification this revision application is dismissed.