
(2019) 03 RAJ CK 0139
In the Rajasthan High Court
Case No : Criminal Revision No. 1336 Of 2017

Smt. Anita Devi And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 13-03-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 125, 125(1)

Citation : (2019) 03 RAJ CK 0139

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : D.S. Thind, Shreekant Verma

Final Decision : Disposed Off

Judgement

Both these revision petitions have been filed by the petitioner wife and respondent no.2 husband challenging the order dated 20.06.2017 passed by the Family Court, Sriganganagar in Criminal Case No. 260/2013 by which the Family Court, Sriganganagar awarded compensation in the sum of Rs. 2,000/-and Rs. 3,000/- in favour of the wife and son respectively from the date of filing of the application.

Counsel for the petitioner-wife argued that the wife is having no independent source of income whereas, the husband is working in BSF and his income is more than Rs. 50,000/- and since the husband has neglected and refused to maintain her and has performed second marriage, therefore, looking to the present scenario and inflation, the maintenance awarded by the Family Court is on the lower side and therefore, it may be adequately enhanced taking into consideration of the income of husband.

Per contra, counsel for the husband submits that wife herself left the matrimonial house of the husband without any reason and despite his efforts, wife was not ready to live with the respondent, therefore, there is no question of enhancement of maintenance awarded to the wife.

I have heard learned counsel for the parties, perused the impugned order and scanned the entire record.

Section 125 of the Code makes provision for the grant of maintenance to wives, children and parents. Sub-section (1) of Section 125 inter alia says that if any person having sufficient means neglects or refuses to maintain his wife who is unable to maintain herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife.

A holistic reading of the provisions would clearly reveal that the responsibility and liability of a person to maintain his wife, children and parents rests on the condition that if any person having sufficient means neglects or refuses to maintain them (wife, children, parents), he can be ordered to make a monthly allowance for maintenance for his wife or child or parents at such monthly rate.

In the instant case, the learned Family Court after considering the entire evidence held the wife to be entitled for maintenance as the husband neglected to maintain her. It is not disputed that the husband Vachitra Singh is working in BSF and earning a sum of around Rs. 33,000/- per month. This Court is of the opinion that amount of maintenance awarded to the wife is always dependent upon the factual situation of the case. Looking to the necessities of life, price index which is rising by leaps and bounds every day and other factors, Rs.2000/- per month to wife and Rs. 3,000/- to minor son seems to be on the lower side and same is liable to be enhanced.

Accordingly, the amount of maintenance awarded by the Family Court, Sriganaganagar vide order dated 20.06.2017 to the wife and minor son is enhanced from Rs. 2,000/- & Rs. 3,000/-respectively to Rs. 4,000/- & Rs. 6,000/- per month respectively, from the date of passing of this order. The petitioner husband shall pay the arrears of the amount of maintenance as per order dated 20.06.2017 passed by the Family Court, Sriganaganagar, within a period of three months from date of passing of this order. The enhanced amount of maintenance i.e. total Rs. 10,000/- shall be now payable to the wife and minor son from today. However, it is made clear that the minor son shall be entitled to maintenance till his date of attaining majority.

The revision petitions stands disposed of. The stay application is also disposed of.

The record of the Family Court be sent back forthwith.