
(2011) 09 UK CK 0160

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 1038 of 2010

Smt. Deepika Vats and Master Kartik, through natural
guardian mother Deepika Vats

APPELLANT

Vs

Amit Kumar

RESPONDENT

Date of Decision : 12-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 482

Citation : (2011) 09 UK CK 0160

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this petition moved u/s 482 of Code of Criminal Procedure, 1973 (for short Code of Criminal Procedure) the Petitioners have sought quashing of the order dated 25.08.2010, passed by Judge, Family Court, Haridwar, in case No. 14 of 2009, Deepika and Anr. v. Amit Kumar, u/s 125 Code of Criminal Procedure.

3. Admittedly, Petitioner No. 1 Deepika Vats is wife of Respondent Amit Kumar. It is also not disputed that Kartik aged 2 1/2 years is their son. The wife, and the son appear to have moved an application before the Judge, Family Court, Haridwar, claiming maintenance u/s 125 Code of Criminal Procedure. During the pendency of said application, the application for interim maintenance was also moved. After hearing the parties vide impugned order dated 25.08.2010, the trial court has directed the Respondent to pay maintenance at the rate of ` 1,000/-per month to his wife, and ` 500/-per month to his son. Aggrieved by said order, the Petitioners have filed this petition challenging the order on the ground that the amount directed to be paid is too meager.

4. Learned Counsel for the Respondent pleaded that Petitioner No. 2 Deepika Vats is herself a Ph.D, and is able to earn for herself. It is also pointed out that

monthly income of the Respondent is Rs. 5,000/- per month (which is the admitted amount).

5. Merely for the reason that wife holds degree of Ph.D., does not disentitle her from claiming maintenance particularly when she is not in any job.

6. Having considered submissions of learned Counsel for the parties, and after going through the papers on record, for the ends of justice, the impugned order dated 25.08.2010, requires modification, and it is directed that till the disposal of application u/s 125 Code of Criminal Procedure, pending before the trial court, the Respondent shall pay Rs. 1,500/- per month to his wife, and Rs. 1,000/- per month to his minor son in terms of the order dated 25.08.2010, passed by the trial court. With this modification in the impugned order, the petition u/s 482 Code of Criminal Procedure, is disposed of with the observation that the trial court shall proceed with, and decide finally the application u/s 125 Code of Criminal Procedure, as early as possible.