
(1999) 09 AHC CK 0167

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 653 of 1999;

Vedwati

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 02-09-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (1999) 09 AHC CK 0167

Hon'ble Judges : Virendra Saran, J

Final Decision : Disposed Of

Judgement

Virendra Saran, J.—Heard learned counsel for the applicant.

2. It appears that the applicant filed an application on 13591 against opposite party No. 2 Jagdish Chandra Shukla claiming maintenance. An exparte order of maintenance was granted on 51091 and the husband, opposite party No. 2 was directed to pay Rs. 150/ per month to the applicant. Thereafter an application for setting aside the exparte order was filed by the opposite party No. 2 on 31 892 which was allowed on 212 94. The Court below set aside the exparte order and ordered for payment of Rs. 200/. It is not clear from the order whether Rs. 200/ was awarded as costs or they were to be paid as interim maintenance.

3. The application by opposite party No. 2 for refund of the maintenance amount already paid under exparte order was rejected by the learned Magistrate on 1598. Opposite party No. 2 filed a revision challenging the order dated 1598 but the same was dismissed on 341999.

4. I have gone through the order dated 1598 and 3499 and the Court below have given cogent reasons for rejecting the application of opposite party No. 2. After dismissal of his revision on 3499, opposite party No. 2 filed an application on 22599 stating therein that he is ready to marry the applicant. It may be noted here that opposite party No. 2 is contesting the application under Section 125, Cr. P.C. on the ground that the applicant is not his wife. The application dated

22599 of opposite party No. 2 (Annexure9) asking the Court to pass directions for marriage of the applicant with opposite party No. 2 is meaningless in these proceedings under Section 125, Cr. P.C. because the opposite party No. 2 has denied his marriage with the applicant in clear terms. Even in his application dated 22599 opposite party No. 2 has asserted that the applicant is not married to him. I have no doubt in my mind that the application dated 22599 has been moved for some ulterior purpose and under Section 125, Cr. P.C. the Court cannot direct the applicant to marry with opposite party No. 2. The allegations in the application of opposite party No. 2 that he has grown older and his wife has died and he is in dire need of a woman for supporting him and hence the applicant be asked to marry him has been made to humiliate the applicant and appear to be simply mischievous. The fact remains that the point for determination before the Court is whether the applicant is married wife of opposite party No. 2 or not.

5. The case has lingered on for a very long time and more than 9 years have elapsed. In these circumstances, the learned Magistrate shall dispose of the application under Section 125, Cr. P.C. as expeditiously as possible. It is further directed that in case it is not possible to dispose of the application expeditiously, it shall be open to the learned Magistrate to make a clear cut order granting interim maintenance to the applicant as in the instant case very purpose of maintenance proceedings is being frustrated due to delay in disposal.

6. With the above observations and directions this application is disposed of finally. Application disposed of.