

MANOJ YADAV
v.
PUSHPA @ KIRAN YADAV
(SLP(Crl.) No. 6568 of 2009)
Criminal Appeal No. 107 of 2011

NOVEMBER 22, 2010

[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

[2010] 13 (ADDL.) SCR 894

The following order of the Court was delivered

ORDER

The petitioner is the husband who is challenging an order under Section 125 Cr. P.C awarding maintenance of Rs. 4000/- per month to the wife. Learned counsel for the petitioner submitted that by a State amendment in Madhya Pradesh to Section 125 Cr.P.C. the maximum amount which can be awarded in Madhya Pradesh as Maintenance is Rs. 3,000/-.

Learned counsel for the respondent is granted two weeks time for filing an application challenging the Constitutional validity of Madhya Pradesh Act 50 of 2004. by which the maximum limit of Rs. 3000/- per month has been fixed for granting maintenance under Section 125 CrPC. Issue notice to the State of Madhya Pradesh returnable in four weeks.

We have been informed that the States of west Bengal, Tripura and Maharashtra have also fixed a maximum limit of Rs. 1500/- as maintenance under Section 125 CrPC, by State Laws.

In our prima facie opinion such laws are unconstitutional being violative of Articles 14 and 21 of the Constitution.

Issue notice also to these three State Governments. The Central Government who also may file reply within four weeks.

Issue notice to the Central Government and Union of India. These Governments and above mentioned State Governments will be impleaded as respondents in this Case.

We request Ms. Kamini Jaiswal to assist this Court as amicus curiae in this case.

We are issuing notices to these governments in this case because in our prima facie opinion the above mentioned amendments are unconstitutional being violative of Article 14 and 21 of the Constitution because the husband may be earning a huge money and to award a petty amount to the wife is wholly arbitrary and unconscionable in these days of inflation.

No doubt the object of Section 125 Cr.P.C. is to prevent vagrancy, but vagrancy is relative word. For many women awarding them Rupees 1500/- per month, or even Rs. 3,000/- per month may amount to keeping them in a condition of vagrancy.

List this case again on 11th January 2011. Copies of this Petition will be supplied by counsel for the parties to the State Governments mentioned in this order and also to the Central Government. Office will supply copy of this petition and this order free of charges to Ms. Kamini Jaiswal forthwith.

