

Sandeep Sharma Vs State of U.P.& Others

Court: Allahabad High Court

Date of Decision: Dec. 19, 2008

Hon'ble Judges: A.K.Roopanwal, J

Final Decision: Disposed Of

Judgement

A.K. Roopanwal, J.

This revision has been filed against the order dated 23.9.2008 passed by the Principal Judge, Family Court, Agra, in Family Court Case No. 6 of

2008, Priya Sharma Vs. Sandeep Sharma, whereby the court allowed the application for interim maintenance moved by O.P. No. 2, Smt. Priya

Sharma and awarded interim maintenance of Rs. 3000/ per month to her and Rs. 1000/ per month to her daughter Km. Nandini.

Heard Mr. S. N. Singh, learned counsel for the revisionist, learned AGA for the State, Mr. R. N. Sharma, learned counsel for O.P. Nos. 2 & 3

and perused the record.

Mr. Sharma raised a preliminary objection against this revision. He argued that the order questioned in this revision is an interlocutory order against

which no revision can be filed. In support of the argument the reliance has been placed on a Division Bench case of this Court reported in 1998

ACJ 1161, Smt. Pratima Sen Gupta Vs. Sajal Sen Gupta in which it was held that the order granting interim maintenance is an interlocutory order.

Against the above ruling it has been argued by Mr. Singh that the ruling relied upon by Mr. Sharma is on Hindu Marriage Act and not being a ruling

on the provisions contained u/s 125 Cr.P.C., hence this ruling cannot be made applicable on the facts of the present case. He also argued that a

learned Single Judge of this Court in 1998 U.P. Cr. R. 527, Mukhtar Ali Vs. Judge, Family Court, Allahabad, has held that the order granting

interim maintenance is not an interlocutory order.

It is no doubt true that the ruling relied upon by Mr. Sharma was given in a case under the Hindu Marriage Act but it cannot give any benefit to the

revisionist. The main question involved in the ruling was as to whether the order of interim maintenance is an interlocutory in nature or not and when

it was found to be an interlocutory in nature, it hardly matters that the ruling was given in a case under Hindu Marriage Act or in a case u/s 125

Cr.P.C. Thus, relying on this ruling no preference can be given to the Single Judge ruling, which is also a ruling of prior date to the date of the ruling

relied upon by the respondents.

In view of the above, I find that the order impugned in this revision is of interlocutory nature and cannot be challenged by way of a revision.

Consequently, this revision is dismissed as not maintainable.