

(1994) 11 AHC CK 0024

Allahabad High Court

Case No: Criminal Revision No. 1650 of 1994

Lal Singh

APPELLANT

Vs

Meena Kumari and Others

RESPONDENT

Date of Decision: Nov. 10, 1994

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 125

Citation: (1995) 1 DMC 619

Hon'ble Judges: N.B. Asthana, J

Bench: Single Bench

Final Decision: Disposed Of

Judgement

N.B. Asthana, J.

This revision has been directed against the order dated 27.9.94 passed by the Judge, Family Court, Agra in Miscellaneous Case No. 91 of 1994 Smt. Meena Kumari v. Lal Singh and Criminal Case No. 282 of 1992 Smt. Meena Kumari v. Lal Singh dated 31.3.94 in an application u/s 125 Cr.P.C. It appears that Smt. Meena Kumari filed an application u/s 125 Cr.P.C. which was registered as Criminal Case No. 265 of 1992. The revisionist after moving an application for adjournment did not appear to contest the application whereupon vide order dated 31.3.94 the Judge Family Court granted maintenance allowance at the rate of Rs. 500/- per month to Smt. Meena Kumari and at the rate of Rs. 300/- per month to their son w.e.f. 30.7.92, the date on which the application was filed. She put it into execution. Notice was issued to the revisionist fixing 27.9.94. From the order passed it appears that the notice was not received unserved and since the address given was correct service was taken to be sufficient, the recovery warrant for recovery of arrears was issued.

2. It is alleged by the revisionist that on 27.10.94 he filed an application (Annexure-1 to the affidavit) stating that he is prepared to deposit the amount of the entire maintenance allowance including arrears and that he be afforded an opportunity to

be heard against the ex parte order passed in the case. The contention of the revisionist further is that without considering this application the Trial Court issued the recovery warrant, it may be noted that the recovery warrant was ordered to be issued on 27.9.94. This application was filed on 27.10.94. There was no question of considering this application at the time the recovery warrant was issued.

3. This revision was filed on 2.11.94. The order passed by the Judge, Family Court on 31.3.94 cannot be considered in this revision, it has become barred by time. No application for condonation of delay as contemplated by Section 5 of the Limitation Act has been given. Coming to the order dated 27.9.94 it can at once be said that the order does not suffer from any illegality or impropriety. The revisionist failed to pay the maintenance allowance and, therefore, the recovery warrant was rightly issued against him. As regards the grievance of the revisionist that his application dated 27.10.94 has not been considered, I am of the opinion that this application should have, been considered and appropriate orders should have been passed over it. I direct that in case the revisionist deposits maintenance allowance w.e.f. 31.3.94 upto date at the rate of 500/- per month and further deposits Rs. 8000/- as part of arrears of the maintenance allowance upto date of judgment by the Judge, Family Court the recovery warrant would remain suspended pending the disposal of the application dated 27.10.94 filed by the revisionist. The revisionist is given three weeks time to deposit the amount. During this period the property, if any attached, shall not be sold. In case no attachment has been made then for three weeks no property shall be attached nor any warrant of arrest would be issued.

With the above observations the revision is disposed of finally.