

(1995) 09 MP CK 0036

Madhya Pradesh High Court

Case No: Criminal Revision No. 240 of 1993

Sadami Lal

APPELLANT

Vs

Raj Kumari

RESPONDENT

Date of Decision: Sept. 21, 1995

Acts Referred:

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

Citation: (1996) 2 DMC 135

Hon'ble Judges: Ramesh Surajmal Garg, J

Bench: Single Bench

Advocate: Z.M. Shah, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

R.S. Garg, J.

On an application by the wife u/s 125, Cr.P.C, the Judicial Magistrate, First Class, Hoshangabad, in Misc. Criminal Case No. 36 of 1991, by his order dated 22.10.1991, awarded a sum of Rs. 200/- as maintenance. The husband filed Criminal Revision No. 120 of 1991, challenging the correctness, validity and propriety of the order, while the wife filed Criminal Revision No. 129 of 1991, for enhancement of the said amount. The learned Second Additional Sessions Judge, Hoshangabad, by order passed on 8.1.1993 dismissed the revision filed by the husband and allowed the revision filed by the wife by enhancing maintenance amount to Rs. 400/-. The husband did not challenge the order passed in Criminal Revision No. 116 of 1991 and, as such, the findings recorded by the learned Court below that the husband was treating the wife with cruelty and the wife is unable to maintain herself are to be maintained. The present revision has been filed against the order dated 8.1.1993 passed in Criminal Revision No. 129/1991, challenging the enhancement.

2. Mr. Z.M. Shah learned Counsel for the applicant contended that the husband is getting a sum of Rs. 1,142.35 per month as salary and the land which is held to be

his own, in fact, is family land. He contended that even if the finding of the learned Court below that the land belongs to him is taken to be correct, then too, out of the total earning, a sum of Rs. 400/- per month cannot be awarded. -It is submitted by him that ordinarily the Courts award one-fifth as maintenance from the husband's earning. He submitted that if everything is held against the applicant, then too, the maintenance amount deserves to be reduced. "

3. The learned Revisional Court, after considering the evidence, has held that the salary of the applicant was Rs. 1,142.35 p. per month and he is possessed of 7 acres of land. The applicant in his written statement admitted that from these 7 acres of land, he is earning about Rs. 3,500/-per year. On calculation, the learned Addl. Sessions Judge found that the total earning of the applicant is about Rs. 1,400/-. Out of this amount, a sum of Rs. 400/- is awarded as maintenance to the wife. The material on record shows that the husband is working as a Patwari in the Irrigation department. He is employed in Government Service and holds 7 acres of land. The evidence of the applicant does not show that he has no residence to shelter, or has other responsibility to shoulder. In these circumstances, if the learned Court below came to the conclusion that in these days of rising prices, a sum of Rs. 400/- as maintenance would be sufficient, no fault can be found with the findings of the Revisional Court. I find no force in this revision. It is dismissed.