

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1375 OF 2011

Mubasheera @ Meenakshi

Appellant(s)

Versus

Dr. G. Lokendranath and Another

Respondent(s)

O R D E R

Heard Mr. Siddartha Dave, learned counsel for the appellant and Mr. V. Pattabhiram, learned counsel for the respondent No.1.

The appellant preferred M.C. No.23 of 2005 under Section 125 of the Code of Criminal Procedure, before the court of Judicial Magistrate First Class, Hindupur, alleging that she was the wife of the respondent No.1 and the appellant has been living as husband and wife for some time and when he started neglecting her, she was compelled to file a petition for maintenance for herself and child.

The husband-respondent has preferred a Criminal Petition No.991 of 2006 under Section 482 of the Code of Criminal Procedure for quashing of the said proceeding on the ground that there was no valid marriage. The High Court by the impugned order has opined that the marriage was not valid and, accordingly, quashed the proceeding.

In our considered opinion, where a man and a woman living together as husband and wife, the wife will be entitled to maintenance and, therefore, the High Court should not have quashed the proceeding. That apart, without any basis, as we find, the High Court has opined that there was no valid marriage. The said findings should have been recorded on the basis of the evidence adduced by the parties.

In view of the aforesaid, we set aside the impugned order and remand the matter to the trial court concerned. If the power under Section 125 in that area is presently exercised by the Family Court, the learned District and Sessions Judge of Ananthapur, shall do the needful to complete the formalities so that the learned Family Judge can hear the matter.

The appeal is disposed of accordingly.

.....J.  
[Dipak Misra]

.....J.  
[Prafulla C. Pant]

New Delhi  
March 18, 2015.

ITEM NO.102

COURT NO.5

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No.1375/2011

MUBASHEERA @ MEENAKSHI

Appellant(s)

VERSUS

G.LOKENDRANATH & ANR.

Respondent(s)

Date : 18/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. Siddartha Dave, Adv.  
Mr. R.K. Singh, Adv.  
Mr. Kumar Gaurav, Adv.  
Mr. B.N. Dubey, Adv.  
Mr. Robin Khokhar, Adv.  
Mr. Rameshwar Prasad Goyal, AOR  
Ms. Jemtiben AO, Adv.

For Respondent(s) Mr. V. Pattabhiram, Adv.  
Mr. M. Vijaya Bhaskar, AOR  
  
Mr. Guntur Prabhakar, Adv.  
Ms. Prerna Singh, Adv.  
Mr. G. Pramod Kumar, Adv.  
Mr. D. Mahesh Babu, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is disposed of in terms of the signed  
order.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)