

ITEM NO.9

COURT NO.7

SECTION IIA

S U P R E M E

C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1) No(s).5287/2010
(From the judgement and order dated 11/03/2010 in SCRLA No.
2196/2009 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

KARNIK HARSHADBHAI SHAH

Petitioner(s)

VERSUS

PRITI KARNIK SHAH & ANR.
(With appln(s) for stay and office report)

Respondent(s)

Date: 25/10/2010

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s)

Mr. T. Adesha, Adv.
Mr. Kamal Singh Pundir, Adv.
Mr. Anil Kumar Sharma, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

Mr. Subramonium Prasad, Adv.
Ms. Ruchi Kohli, Adv.
Mr. Rajat Khatri, Adv.
Mr. Abhijat P. Medh, Adv.

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

Leave granted.

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

(KALYANI GUPTA)
SR. P.A.

(VINOD KULVI)
COURT MASTER

CrL.A. OF 2010 @ SLP(CRL.) 5287 OF 2010

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[SIGNED ORDER IS PLACED ON THE FILE.]

CrL.A. OF 2010 @ SLP(CRL.) 5287 OF 2010

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2161 OF 2010
ARISING OUT OF SPECIAL LEAVE PETITION (CRL.) NO. 5287 OF 2010

KARNIK HARSHADBHAI SHAH

.....

APPELLANT

VERSUS

PRITI KARNIK SHAH & ANR.

.....

RESPONDENTS

O R D E R

1. Leave granted.

2. We have heard learned counsel for the parties.

3. The Family Court rejected the application filed by the respondent-wife for maintenance under Section 125 of the Criminal Procedure Code but awarded Rs. 3,000/- per month as interim maintenance to the daughter of the couple.

In an

appeal taken to the High Court, at the instance of the wife, the High Court has awarded a sum of Rs. 5,000/- per month as interim maintenance under Section 125 of the Code of Criminal Procedure to the wife as well. It is this part of the order that has been challenged by the appellant in this appeal. The only reason given by the High Court in awarding

a sum of Rs. 5,000/- to the respondent-wife is that the

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income of the wife was a factor which was irrelevant for determining her right to maintenance under Section 125 of the Cr.P.C. We are of the opinion that this is against the

provision aforesaid as the income of the wife is indeed a relevant consideration. We also see from the order of the

High Court that it does not give any reasons for overturning the order of the Family Court. We, accordingly,

set aside the impugned order insofar as it directs the payment of Rs. 5,000/- per month to the respondent wife.

However, payments made to the wife pursuant to the orders of this Court dated 16th July, 2000 will remain with her.

We,

further, direct that any other amounts deposited in the High Court shall also be paid to the wife forth with. The parties are directed to appear before the Family Court on 25th November, 2010, for reconsideration of the matter.

4. The appeal stands disposed of in the aforesaid terms.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
OCTOBER 25, 2010.