

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 107 OF 2011
(arising out of S.L.P. (Crl) No(s).6568 of 2009)

MANOJ YADAV

Appellant(s)

VERSUS

PUSHPA @ KIRAN YADAV & ORS.

Respondent(s)

O R D E R

Heard learned counsel for the parties.

We also wish to express our appreciation of Ms. Kamini Jaiswal, learned counsel, whom we had appointed as Amicus Curiae in the case, and she has been of great assistance to us.

Leave granted.

This Appeal has been filed against the impugned judgment of the High Court of Madhya Pradesh, Bench at Gwalior, dated 23.01.2009 passed in Criminal Revision No. 12/2008. That judgment was given in a criminal revision filed against the order dated 04.10.2007 of the learned Additional Family Court, Gwalior granting maintenance of Rs. 1,500/- per month under Section 125 Cr.P.C. to respondent No. 1. Respondent No. 1 by means of her criminal revision applied for enhancement of the maintenance.

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By the impugned judgment the High Court has granted a sum of Rs. 4,000/- per month as maintenance with effect from 01.01.2009 to the wife-respondent No. 1 in this case. That order has been challenged before us.

Learned counsel for the appellant submitted that the amount which could be granted as maintenance under Section 125 Cr.P.C. in the State of Madhya Pradesh could at most be Rs. 3,000/- in view of the amendment to Section 125 Cr.P.C. by Madhya Pradesh Act 10 of 1998. It appears that Section 125 Cr.P.C. has been further amended in Madhya Pradesh by a subsequent amendment by Madhya Pradesh Act 15 of 2004 which does not contain any upper limit in the maintenance to be granted under Section 125 Cr.P.C. and it is left to the discretion of the magistrate. Hence, there is no substance in the submission of the learned counsel for the appellant.

Moreover, we are of the opinion that after the amendment to Section 125 Cr.P.C., which is a Central Act, by the Code of Criminal Procedure (Amendment) Act, 2001 which deleted the words "not exceeding five hundred rupees in the whole", all State amendments to Section 125 Cr.P.C. by which a ceiling has been fixed to the amount of maintenance to be awarded to the wife have become invalid.

For the reasons given above, there is no merit in the Appeal and it is dismissed accordingly.

.....J.
(MARKANDEY KATJU)

.....J.
(GYAN SUDHA MISRA)

NEW DELHI;
JANUARY 11, 2011.

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JUDGMENT