

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).6568/2009

(From the judgment and order dated 23/01/2009 in CRR No. 12/2008 of
The HIGH COURT OF M.P AT GWALIOR)

MANOJ YADAV Petitioner(s)

VERSUS

PUSHPA @ KIRAN YADAV Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 22/11/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s)

Mr. Jai Prakash Pandey, Adv.

For Respondent(s)

Mr. Nikilesh Ramachandran, Adv.
Mr. Alok Pandey, Adv.
Mr. Shantanu Singh, Adv.

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

Issue notice to the State of Madhya Pradesh returnable in four weeks. Issue notices to the State of West Bengal, Tripura and Maharashtra Who also may file reply within four weeks

Issue notice to the Central Government and Union of India. These Governments and above mentioned State Governments will be impleaded as respondents in this Case.

-2-

We request Ms. Kamini Jaiswal to assist this Court as amicus curiae in this case.

List this case again on 11th January 2011.

(Deepak Joshi)
Sr. P.A.

(Indu Satija)
Court Master

(Signed reportable order is placed on the file)

Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SLP (Criminal) NO. 6568 OF 2009

MANOJ YADAVPETITIONER

VERSUS

SMT. PUSHPA @ KIRAN YADAVRESPONDENT

O R D E R

The petitioner is the husband who is challenging an order under Section 125 Cr.P.C awarding maintenance of Rs. 4000/- per month to the wife. Learned counsel for the petitioner submitted that by a State amendment in Madhya Pradesh to Section 125 Cr.P.C. the maximum amount which can be awarded in Madhya Pradesh as maintenance is Rs. 3,000/-.

Learned counsel for the respondent is granted two weeks time for filing an application challenging the Constitutional validity of Madhya Pradesh Act 50 of 2004 by which the maximum limit of Rs 3000/- per month has been fixed for granting maintenance under Section 125 CrPC. Issue notice to the State of Madhya Pradesh returnable in four weeks.

-2-

We have been informed that the States of West Bengal, Tripura and Maharashtra have also fixed a maximum limit of Rs. 1500/- as maintenance under Section 125 CrPC, by State Laws.

In our prima facie opinion such laws are

unconstitutional being violative of Articles 14 and 21
of the Constitution.

Issue notice also to these three State
Governments. The Central Government who also may file
reply within four weeks.

Issue notice to the Central Government and Union
of India. These Governments and above mentioned State
Governments will be impleaded as respondents in this
Case.

We request Ms. Kamini Jaiswal to assist this
Court as amicus curiae in this case.

We are issuing notices to these governments in
this case because in our prima facie opinion the above
mentioned amendments are unconstitutional being
violative of Articles 14 and 21 of the Constitution
because the husband may be earning a huge money and to
award a petty amount to the wife is wholly arbitrary
and unconscionable in these days of inflation.

No doubt the object of Section 125 Cr.P.C. is to
prevent vagrancy, but vagrancy is a relative word. For
many women awarding them Rupees 1500/- per

-3-

month, or even Rs. 3,000/- per month may amount to
keeping them in a condition of vagrancy.

List this case again on 11th January 2011.
Copies of this petition will be supplied by counsel for
the parties to the State Governments mentioned in this
order and also to the Central Government. Office will
supply copy of this petition and this order free of
charges to Ms. Kamini Jaiswal forthwith.

.....J
[MARKANDEY KATJU]

.....J.
[GYAN SUDHA MISRA]

NEW DELHI
NOVEMBER 22, 2010