

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

SLP(Crl.) No. 4751 OF 2008

RAJENDRA NATH DATT ... Appellant(s)

Versus

ROMA DATT & ORS. ... Respondent(s)

WITH  
T.P.(CRL) NO. 467 of 2008  
T.P.(CRL) NO. 469 of 2008  
T.P.(C) NO. 1133 of 2008  
T.P.(C) NO. 1124 of 2008 &  
SLP(Crl) NO. 9235 of 2008

ORDER

1. Four transfer petitions and two Special Leave Petitions have been taken up together as they are between the same parties, namely, the husband, Rajendra Nath Datt, who is appearing in person, and Smt. Roma Datt (wife) and others (her parents and grand-parents).

2. T.P.(CRL) NO. 467 of 2008, has been filed by the petitioner/wife and others for transferring Criminal  
2

Complaint No.0/17/2006, (titled Rajendra Nath Datt Vs. Roma Datt & Ors.) from the Court of the 2<sup>nd</sup> Additional Civil Judge-cum-Chief Judicial Magistrate, First Class, Vadodara, (Gujarat) to the Court of Chief Judicial Magistrate, Karnal, Haryana.

3. Similarly, T.P.(Crl.)No.469 of 2008, has been filed by the petitioner/wife and others, for transferring Criminal Complaint No.0/9/2006 (titled Rajendra Nath Datt Vs. Roma Datt & Ors.), from the Court of 2<sup>nd</sup> Additional Civil Judge-cum-Judicial Magistrate, First Class, Vadodara, (Gujarat) to the Court of Chief Judicial Magistrate, Karnal, (Haryana).

4. T.P.(C)No.1133/2008, has been filed by the petitioner/wife for transferring Civil Suit No.1008 of 2005, from the Court of 2<sup>nd</sup> Additional Senior Civil Judge, Vadodara, (Gujarat) to the Court of Civil Judge (Senior Division) Karnal, (Haryana).

5. The fourth transfer petition, being T.P(C)1124 of 2008, has been filed by the petitioner/wife for transferring H.M.A. Petition No. 267 of 2005, (titled Rajendra Nath Datt vs. Roma Datt) from the Court of the 3<sup>rd</sup> Additional Senior Civil Judge, Vadodara (Gujarat) to the Court of the District Judge, Karnal, (Haryana).

6. The grounds taken in all the four transfer petitions are the same.

7. As far as SLP(Crl.)No.4751 of 2008, is concerned, the same has been filed by the petitioner/husband, Rajendra Nath Datt, appearing in person, against the judgment and order dated 25<sup>th</sup> March, 2008, passed in Criminal Misc.No.16094-M of 2007, by the Punjab & Haryana High Court directing payment of interim maintenance at the rate of Rs. 1,000/- to the wife and Rs.2,000/- each to the son and daughter of the petitioner, per month.

8. It may be indicated that the application filed by the wife under Section 125 Cr.P.C. is still pending before the trial court.

9. SLP(Crl.)No.9235 of 2008, has been filed by the petitioner/husband, Rajendra Nath Datt, who is appearing in person, against the judgment and order dated 17<sup>th</sup> September, 2008, passed by the Gujarat High Court at Sola, Ahmedabad, in Criminal Revision 4

Application No.525 of 2008, whereby the grievance of the petitioner regarding non-issuance of process by the 2<sup>nd</sup> Additional Civil Judge and Judicial Magistrate, 1 Class, Vadodra, in respect of some of the alleged offences, was

questioned and the High Court dismissed the review application on the ground that while cognizance has been taken on the original complaint, if any, further subsequent offence had been committed by the accused persons, the petitioner would be at liberty to file fresh complaints before the learned Sessions Judge for taking cognizance.

10. We have heard learned counsel for the petitioner in the transfer petitions and the petitioner/respondent in person in the Special Leave Petitions.

11. As far as the transfer petitions are concerned, we are satisfied that sufficient grounds have been made out for the same to be allowed. Apart from the fact that the petitioner/wife is living in Karnal and has an adolescent son, it appears that she also does not have any person who can accompany her to Vadodara to attend to the pending cases filed by the husband, since according to

5

her, her father is about 80 years of age and is suffering from various diseases and she has no male member available to accompany her to Vadodara.

12. Apart from the above, as far as other two Special Leave Petitions are concerned, we see no reason to interfere with the judgment and order passed by the High Court with regard to the taking of cognizance by the learned Magistrate. The High Court, according to us, has taken the correct view in holding that if any subsequent offence was alleged to have been committed, it would be available to the petitioner to file a fresh complaint in that regard before the learned magistrate for taking fresh cognizance. We, therefore, see, no reason to entertain the Special Leave Petition, which is accordingly, dismissed.

13. As far as the other Special Leave Petition, being SLP(Crl.)No.4751/08, is concerned, there is some merit in

the submission made by the petitioner that the daughter has since attained majority and no longer comes within the ambit of Section 125 Cr.P.C. and the maintenance awarded to her, albeit interim in nature, was not proper

6

and contrary to the provisions of Section 125 of the Code.

14. It may also be indicated that it is not disputed on behalf of the respondent/wife that the daughter has attained majority.

15. Accordingly, we allow the Special Leave Petition in part by modifying the order of maintenance as far as the adult daughter is concerned. The maintenance awarded in her favour is hereby set aside.

16. Apart from the above, the remaining portions of the order of the learned trial court shall continue to be operative until the matter is finally decided.

17. The Special Leave Petition is, accordingly, allowed to the aforesaid extent. All interim orders passed therein are vacated.

18. As far as the transfer petitions are concerned, the same are also allowed.

19. Let the respective cases pending before the courts at Vadodara, as indicated herein, stand transferred to the respective courts at Karnal, Haryana.

20. The amounts already paid for the daughter by

7

way of maintenance in terms of the impugned order, shall not be recovered.

.....J.  
(ALTAMAS KABIR)

.....J.  
( DEEPAK VERMA )

New Delhi,  
December 08, 2009.

SUPR EME COUR T OF I ND I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).4751/2008

(From the judgement and order dated 25/03/2008 in CRLM No.16094/2007  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAJENDRA NATH DATT

Petitioner(s)

VERSUS

ROMA DATT & ORS.

Respondent(s)

(With appln(s) for stay and office report )  
(for final disposal)

WITH

T.P.(CRL) NO. 467 of 2008

(With appln.(s) for stay and stay extension of interim order  
dated 10.11.2008 and office report)  
(for final disposal)

T.P.(CRL) NO. 469 of 2008

T.P.(C) NO. 1133 of 2008

[(With appln.(s) for stay and stay and extension of interim order  
dated 10.11.2008 office report)  
[(for final disposal)]

WITH T.P.(C) NO. 1124 of 2008

(With appln.(s) for stay and permission to place on record addl.  
documents and extension of interim order dated 10.11.2008 and office  
report)(for final disposal)

SLP(Crl) NO. 9235 of 2008

(With office report)

Date: 08/12/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE DEEPAK VERMA

9

For Petitioner(s)

Petitioner-In-Person.

in T.Ps. Mr. Gagan Gupta, Adv.

For Respondent(s)

in SR 4751/08 Mr. Gagan Gupta, Adv.

in SLP(Crl.)9235/08 Ms. Hemantika Wahi, Adv.

Mr.Somanath Padhan, Adv.

Respondent-In-Person.

UPON hearing counsel the Court made the following

ORDER

SLP(Crl.)No.9235 of 2008 is dismissed,  
SLP(Crl.)No.4751 of 2008, is allowed in part and the  
transfer petitions are allowed in terms of the signed  
order.

(Sheetal Dhingra)

(Sneh Bala Mehra)

Court Master

Court Master

[Signed order is placed on the file]