

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1399 OF 2019  
(Arising out of SLP (Cr1.) No.7203/2019)

PRATIMA DEVI & ANR. APPELLANT(S)

VERSUS

ANAND PRAKASH RESPONDENT(S)

O R D E R

1. Leave granted.
2. Though served, no one appears for the respondent. The appellants, the wife and minor son of the respondent had filed a petition for grant of maintenance under Section 125 of the Criminal Procedure Code before the Principal Judge, Family Court, Karkardooma Courts, Delhi. The Principal Judge by order dated 03.10.2017 passed an order granting maintenance @ Rs.20,000/- to the appellants, (Rs. 10,000/- to the wife and Rs. 10,000/- to the minor son). This order was passed *ex-parte*. The respondent filed an application for setting aside the *ex-parte* order which application was rejected on 05.09.2018. Aggrieved, the respondent filed criminal revision No. 986 of 2018 before the High Court. Along

with revision petition an application for stay was filed. The orders passed in the said petitions read as follows :

"Trial Court record be requisitioned. List on 25<sup>th</sup> November, 2019. in the meantime, execution proceedings be kept in abeyance."

3. We are constrained to observe that this order shows total non-application of mind on the part of the High court. This was a case where maintenance had been granted to a wife and to a minor son. The High Court without recording any reason whatsoever, has stayed the grant of maintenance both to the wife and to the minor son. This should not be done. A husband/father is duty bound to maintain his wife and child. Unless there are very special reasons, the higher Court should not normally stay such an order. In the present case no reason has been mentioned justifying the grant of the stay order.

4. We, therefore, set aside the impugned order and direct the payment of maintenance as awarded by the Family Court. We, however, make it clear that the High Court after hearing the parties may pass an appropriate reasoned order. We make it clear that

this order will not come in the way of the High Court confirming, modifying or vacating the order of the Family Court.

5. The appeal is, accordingly disposed of.

.....J.  
[ DEEPAK GUPTA ]

.....J.  
[ ANIRUDDHA BOSE ]

NEW DELHI,  
SEPTEMBER 16, 2019.

ITEM NO.43

COURT NO.13

SECTION II-C

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

Petition for Special Leave to Appeal (Crl.) No. 7203/2019

(Arising out of impugned final judgment and order dated 12-07-2019 in CRLRP No. 986/2018 passed by the High Court Of Delhi At New Delhi)

PRATIMA DEVI &amp; ANR.

Petitioner(s)

VERSUS

ANAND PRAKASH

Respondent(s)

(FOR ADMISSION and I.R.)

Date :16-09-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s)

Mr. Kaushal Yadav, AOR  
Mr. Nandlal Kumar Mishra, Adv.  
Dr. Ajay Kumar, Adv.  
Ms. Ankita Agarwal, Adv.  
Ms. Akansha Choudhari, Adv.  
Ms. Akansha Rai, Adv.  
Ms. Shweta Yadav, Adv.

For Respondent(s)

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

Leave granted.

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

[ CHARANJEET KAUR ]  
A.R. -CUM-P.S.

[ RENU KAPOOR ]  
COURT MASTER

[ Signed order is placed on the file ]