

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1468 OF 2017
(@ SLP (CrI.) No.7907 of 2016)

SANGEETA KUMARI

APPELLANT(S)

VERSUS

MUKUL PRASAD

RESPONDENT(S)

O R D E R

Heard the appellant-wife in person and Mr.Amit Verma, learned counsel for the respondent-husband.

Leave granted.

Being aggrieved by the order dated 19th July, 2017 passed by the High Court of Jharkhand at Ranchi in Criminal Revision No.892 of 2015 whereby it has remanded the matter to the trial court, present appeal, by way of special leave, has been preferred.

The appellant-wife filed an application under Section 125 of the Code of Criminal Procedure, 1973 before the Principal Judge, Family Court, Ranchi who after considering the materials on record granted Rs.10,000/- (Rs.Ten Thousand) towards monthly maintenance. The High Court after stating the facts has remanded the matter to the Family Court on the foundation that the grant of

Rs.10,000/- (Rs. Ten Thousand) was based on misconception of facts.

It is submitted by the appellant that she has been suffering since years and at present staying with her father and, therefore, the High Court would have been well advised not to remand the matter. According to her, from the materials brought on record the trial court has come to a definite conclusion to grant of maintenance at the rate of Rs.10,000/- (Rs.Ten Thousand) per month and the said conclusion is wholly justified.

Mr.Amit Verma, learned counsel for the respondent would submit that the husband is presently unemployed and is not in a position to pay the amount as determined by the trial court. Similar voice is echoed by the husband who is present in the court.

When the matter was listed on 25th November, 2016 as an interim measure it was directed that the respondent-husband shall pay a sum of RS.5,000/- (Rs. Five Thousand) per month towards interim maintenance to the wife. We have been apprised that the last amount that has been paid covers the dues till July, 2017. Having regard to the totality of the facts and circumstances of the case, we are of the considered opinion that there was no justification or warrant on the part of the High Court to remand the matter. If the amount appeared excessive to

the High Court, it should have addressed the controversy regard being had to the documentary and oral evidence brought on record. Remand in such matters unless really required should not be directed. In such a situation we would have been compelled to remand the matter to the High Court for adjudication but that is not required as that would amount to denial of justice to the appellant in the case at hand. On being asked whether there is a possibility of settlement, the appellant gave answer in the absolute negative. Considering the facts and the material brought on record we think the cause of justice would be best sub-served if a sum of Rs.8,000/- (Rs.Eight Thousand) per month is paid towards maintenance under Section 125 of the Code of Criminal Procedure, 1973. The arrears shall be computed with effect from 1st December, 2016 and paid within four months hence apart from paying the current dues.

Before parting with the case we must note certain aspects. Learned counsel for the respondent would submit that divorce petition being MTS No.12/2011 is pending in the court of Principal Judge, Family Court at Ranchi, Jharkhand. It is necessary to note that because of some grievance the appellant has preferred W.P.(C)No.5491 of 2014 whereby the High Court has granted stay of further proceedings before the Family Court. The High Court is requested to dispose of the writ petition by the end of

October, 2017. Learned counsel for the respondent is at liberty to produce a copy of this order before the High Court. The Registry of this Court is directed to communicate the order passed herein to the Registrar General of the High Court of Jharkhand at Ranchi.

The appeal is allowed to the extent indicated above.

.....J.
(DIPAK MISRA)

.....J.
(KURIAN JOSEPH)

.....J.
(AMITAVA ROY)

NEW DELHI,
AUGUST 22, 2017.

ITEM NO.7

COURT NO.2

SECTION II-A

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(s) for Special Leave to Appeal (Crl.) No(s).7907/2016
(Arising out of impugned final judgment and order dated 19-07-2016
in CRR No. 892/2015 passed by the High Court Of Jharkhand At
Ranchi)

SANGEETA KUMARI

Petitioner(s)

VERSUS

MUKUL PRASAD

Respondent(s)

(and IA No./- and IA No.55423/2017-IA TO AWARD COST OF THE PETITION
IN FAVOUR OF THE PETITIONER)

Date : 22-08-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s)

Petitioner-in-person

For Respondent(s)

Mr.Amit Verma, Adv.
Gp. Capt. Karan Singh Bhati, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Any pending application(s) also stand disposed of.

(Ashok Raj Singh)

Court Master

(Signed Order is placed in the file)

(H.S.Parasher)

Assistant Registrar