

ITEM NO.8

COURT NO.7

SECTION II-A

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 (CrL.) No(s). 2047/2020

[Arising out of impugned final judgment and order dated 20-12-2019 in CRREV No. 1081/2015 passed by the High Court of Jharkhand at Ranchi]

PUSHPALATA CHAUDHARY

PETITIONER(S)

VERSUS

THE STATE OF JHARKHAND & ANR.

RESPONDENT(S)

Date : 28-11-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Anurag Pandey, AOR
Ms. Reena Pandey, Adv.

For Respondent(s) Mr. Vishnu Sharma, Standing Counsel
Mr. Shantanu Sagar, AOR
Mr. Gunjesh, Adv.
Ms. Esha Singh, Adv.

Ms. Khushboo Hora, Adv.
Ms. Mrinal Gopal Elker, AOR
Ms. Archita Nigam, Adv.

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

1. In the instant case, the wife assails the order dated 20.12.2019 passed in Criminal Revision No. 1081 of 2015 by the High Court of Jharkhand at Ranchi, before which the order dated 28.05.2015 passed in Miscellaneous Case

No. 04 of 2011 was assailed, vide which application filed under Section 127 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') was allowed and the maintenance payable to the petitioner was enhanced in changed circumstances.

2. On perusal of the material placed, the undisputed facts are that the maintenance of ₹4,000/- per month was granted to the petitioner (wife) in the proceedings under Section 125 Cr.P.C. She filed an application under Section 127 Cr.P.C. seeking enhancement of the maintenance showing the change in circumstances, in particular, the earning of the respondent (husband). The learned Trial Court granted the maintenance of ₹5,000/- per month to the wife and ₹3,000/- per month to the son as per order dated 28.05.2015. The same was challenged before the High Court. The High Court by the impugned order granted total maintenance of ₹8,000/- per month to the wife. The maintenance of ₹8,000/- per month was being paid to the son in view of order passed in different proceeding (MAC Case No. 01 of 2017). It is also not in

dispute that at present the petitioner (wife) has already filed an application under Section 127 Cr.P.C. asking further maintenance, which is pending consideration before the Trial Court.

3. During hearing the point which is confessed before us by the petitioner is that the maintenance as awarded by the High Court from January 2020, is not in accordance with law, in particular, when an application seeking enhancement was filed in 2011. Learned counsel fairly submitted that the enhanced amount of maintenance as directed by the Trial Court as well as the High Court may be from the date of the order passed by the Trial Court, i.e. 28.05.2015. The said prayer is opposed by learned counsel for the respondent (husband) on many counts.

4. Having considered the submissions, in our view, the prayer as made by the petitioner appears to be reasonable. Therefore, in the peculiar facts of this case, we direct that the enhanced amount of maintenance as directed by the High Court be paid to the petitioner w.e.f. 01.06.2015 and not from January 2020.

5. Accordingly, the order passed by the High Court stands modified. The arrears of maintenance be paid within a period of six months in three equal installments.

6. With the aforesaid, the Special Leave Petition stands disposed of.

7. We make it clear that the pending application under Section 127 Cr.P.C. be decided by the Trial Court in accordance with law as per the material placed before it, uninfluenced by the order passed today in these proceedings.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)