

Pretension on Aditi @ Mithi V. Jitesh Sharma

Presented by :- Rajesh Kumar Vyas.
Chief Judicial Magistrate,
Rudraprayag.

Aditi @ Mithi ----- Appellant

Versus

Jitesh Sharma --- Respondent

Criminal Appeal No. 3446 of 2023

Supreme Court of India

Decided on November 06, 2023.

Landmark Judgment of Hon'ble

Supreme Court –

Rajnish V. Neha,

Criminal Appeal No. 730 of 2020

Decided on November 04, 2020.

माननीय सुप्रीम कोर्ट ने रजनीश बनाम नेहा के मामले में कहा है कि –

1 प्रायः यह देखने में आता है कि भरण-पोषण के मामले में दोनों पक्ष सही विवरण पेश नहीं करते हैं और अन्दाजन पक्षकारों के अभिवचनों और अधिवक्ताओं की बहस के आधार पर मामले को निस्तारित किया जा रहा है।

1 पत्नी की प्रवृत्ति अपनी जरूरतों को बढ़ा-चढ़ाकर बताने की होती है।

1 पति अपनी आय को छिपाने की प्रवृत्ति रखता है।

इसलिये माननीय सर्वोच्च न्यायालय ने **रजनीश बनाम नेहा** के मामले में कुछ दिशा-निर्देश जारी किये थे और निदेशित किया था कि सभी न्यायालय भरण-पोषण आदेश करने से पहले दोनों पक्षों को अपनी Financial Status, income sources, assets & liabilities in the form of affidavit सम्बन्धित न्यायालय में दाखिल करना होगा। परन्तु High Court, District Court में Family Court, Magistrate Court द्वारा उक्त दिशा-निर्देशों का अनुपालन नहीं किया जा रहा है।

Crux of the Case-

1In 2008 the marriage between the mother of the appellant and the respondent was solemnized.

1Out of the wedlock a boy and a girl were born.

1Custody of boy is with the respondent whereas the appellant is living with mother.

1Husband-respondent filed the divorce petition in January 2018.

1In 2018 Appellant and her mother Shikha Sharma filed an application U/S 125 Cr.P.C. before Family Court (Guna, M.P.)

1Divorce petition allowed by Family Court.
1Application U/S 125 Cr.P.C. was partly allowed.
1Maintenance of ₹20,000/- per month was awarded for appellant minor daughter while the wife was denied to get any maintenance.
1In first appeal High Court of M.P. Gwalior Bench reduced the amount of maintenance from ₹20,000/- of ₹7,500/- with the reasons to record that earlier the respondent was doing private work and at present he is financially distressed.

Second Appeal filed before Hon'ble Supreme Court and Hon'ble Supreme Court find that:-

“The detailed guidelines issued in the case of Rajnesh V. Neha decided on November 04, 2020 were not followed by High Court and Family Court in its letter and spirit.”

Held:-

The affidavit of disclosure of Assets and Liabilities annexed as enclosures I, II and III of this Judgment, as may be applicable, shall be filed by the parties in all maintenance proceedings, including pending proceedings before the Family Court, District court, Magistrate Court, Throughout the country.

Maintenance application- supported by Affidavit of discloser of Assets.

1Respondent must submit the reply along with the affidavit of disclosure with the maximum period of 2 weeks.

1Only 02 opportunities for affidavit.

1Strike off the defence of the respondent.

1Not file affidavit, application be decide on basis of the record filed by the applicant.

1Dispute in deceleration made in affidavit of disclosure the aggrieved party may seek permission of the court to serve interrogatories and seek production of relevant documents from the opposite party under order 11 C.P.C.

1 **Change in circumstances-** supplementary affidavit consider by the court.

1 **False statement-** 340 Cr.P.C. and contempt of court.

1 **E. W. S. , B. P. L. -** No affidavit.

1 **Interim maintenance order-** 4 to 6 months.

1 Professional Marriage Counsellor must be made available in every Family Court.

Format of affidavit:-

1 encloser I- Non agrarian

1 encloser II- Agrarian (कृषि)

1 encloser III- Affidavit for the state of
Meghalaya

1 **Thanks and Regards.**