

**SUPREME COURT OF INDIA**

Boomi

Vs.

Leela Rajan

Crl.A.No.574 of 1976

(H. R. Khanna and V. R. Krishna Iyer, JJ.)

02.12.1976

**JUDGEMENT**

**KHANNA, J.:-**

1. This appeal by special leave is against the judgment of the Madras High Court reversing the decision of the Sub-Divisional Magistrate and awarding for future Rs. 150/- per mensem and for the past Rs. 100/- per mensem, for the maintenance of Selva Kumar, minor respondent No. 2 in proceedings under Section 488 of the Code of Criminal procedure.

2. An application was filed by Smt. Leela Rajan, respondent No. 1, under Section 488 of the code of Criminal Procedure claiming maintenance for herself as well as for her minor son, Selva Kumar, respondent No. 2 against the appellant. According to the allegation made in the application, respondent No. 1 got intimate with the appellant when the appellant was a medical student. Respondent No. 1 was at that time working as a nurse. It is stated that Selva Kumar, respondent No. 2, was born as a result of that intimacy. Respondent No. 1 also asserted that she had undergone marriage ceremony with the appellant. Prayer was by respondent No. 1 for awarding maintenance at

the rate of Rs. 200/- per mensem for herself and at the rate of Rs. 150/- per mensem for respondent No. 2

3. The Sub-divisional magistrate dismissed the application. He disbelieved the allegation made in the application that respondent No. 1 was lawfully married to the appellant. The allegation that respondent No. 2 was born as a result of the intimacy of respondent No. 1 with the appellant was also disbelieved. On revision, the High Court held that it was the appellant who was the father of respondent No. 2. The High Court further held that some kind of marriage ceremony was gone through between the appellant and respondent No. 1, but the marriage was not valid as the appellant was a Hindu, while respondent No. 1 was a Christian. In the result, the High Court disallowed the claim of respondent No. 1 for the award of maintenance, Regarding respondent No. 2, the High Court awarded maintenance at the rate of Rs. 100/- per mensem from the date of the application till the date of the decision of the High Court and at the rate of Rs. 150/- per mensem for the future from the date of the decision.

4. At the hearing of the appeal, there has been a settlement of the subject-matter of the appellant shall deposit in a scheduled bank at Madras within four months from today a sum of Rs. 16,000 in the name of respondent No. 2 under the guardianship of respondent No. 1. Respondent No. 1 would be entitled to receive interest every month on that amount for the maintenance of respondent No. 2 till he attains majority. Looking to all the facts, we are of the view that the settlement arrived at is reasonable and in the interest of respondent No. 2. We accordingly allow the parties to enter into this settlement. In case the appellant fails to deposit the amount in question within the requisite time, the appeal shall stand dismissed. The appeal is disposed of in the above terms.

Order accordingly.