

Mohd. Naim Siddiqui

Vs

Smt. Sultana Khatoon

Criminal Appeal No. 146 of 1981

(V.D. Tulzapurkar, A. Varadarajan JJ)

10.02.1981

JUDGMENT

TULZAPURKAR, J. -

1. Special leave granted.

2. After hearing counsel on either side we are satisfied that in this case the husband had not been served with notice when the matter was decided against him ex parte by the learned Trial Magistrate. We accordingly set aside the order dated November 25, 1979, passed by the High Court in revision as also the ex parte order passed by the learned Trial Magistrate in original complaint under Section 125, Criminal Procedure Code. The matter is remanded back to the learned Trial Magistrate for being disposed of afresh in accordance with law. There will be no fresh service on the husband. The counsel for the appellant has assured us that the appellant waives service and will appear before the Trial Magistrate. The learned Trial Magistrate is directed to dispose of the matter as expeditiously as possible preferably within four months from the date of the receipt of this order. The appeal stands disposed of accordingly with no order as to costs.

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