

CASE ANALYSIS: ANJU GARG & ANR. V DEEPAK KUMAR GARG (2022)

Anushka Rai***INTRODUCTION**

The matrimonial disputes and ascertainment of the legal principles in Anju Garg & Anr's case. V Deepak Kumar Garg (2022) is a significant milestone that emphasizes divorce, maintenance petitions, Section 125 of CrPC, and the division of assets, i.e., property rights. The relationship of the couple didn't go well and, day-by-day, deteriorated, leading to disputes and ultimately filing for divorce petition under Indian marital laws, which are meant to govern the legal rights and duties of the couple within the framework of marriage. However, Anju, the appellant, was frustrated and initiated legal proceedings against her husband, Deepak Kumar Garg, within the due span of time. Within a period of time, the allegations of cruelty took their way and levelled up against her husband. In Indian Law, it is well known that cruelty is one of the grounds for divorce under section 13(1) (i-a)¹. Anju, the appellant, presented evidence and submissions before the honourable Court claiming that she suffered mental trauma, emotional and physical distress and suffering due to the force of cruelty and harassment by his husband, Deepak Kumar Garg. Hence, all evidence forms the basis of the divorce petition.

In addition to further proceedings, Anju Garg sought a maintenance petition under Section 125 of CrPC from Deepak Kumar Garg. Maintenance in the context of Indian family law is the definition of providing financial relief to one spouse from the other one; mostly, the husband provides to the wife in the Indian context, which prevents the wife's economic instability. The claims and allegations for the maintenance petition were based on Anju Garg's financial needs and Deepak Kumar Garg's ability to provide support, considering various factors such as his income and assets. As both the parties presented their evidence and documents to the Court regarding the allegations of mental torture and cruelty, it was then the need of the Court to evaluate the evidence and submissions of both the parties so as to justify the need for maintenance. "Courts typically assess the gravity and impact of alleged acts of cruelty on the mental and emotional well-being of the appellant, considering the specific circumstances of each case." Similarly, when adjudicating claims for maintenance, courts weigh various factors

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¹ Hindu Marriage Act, 1955

to determine a fair and just amount that ensures the financial stability of the dependent spouse without imposing undue burden on the supporting spouse.

FACTS OF THE CASE

The current appeal is directed against the Criminal Revision judgement and order dated September 10, 2018, issued by the Punjab and Haryana High Court in Chandigarh. In this order, the appellants' Revision application, which contested the District Judge of Family Court-1, Faridabad's ruling, was dismissed by the High Court. In accordance with Hindu customs and rituals, Anju wed Deepak on December 7, 1991. A few years later, son Rachit Garg was born on April 11, 1999, and daughter Megha Garg was born on October 10, 1991. Anju filed the maintenance petition against her husband, Deepak, under Section 125 of CrPC², seeking maintenance from Deepak, alleging that she was under cruelty and physical and mental torture by her husband, Deepak, which ultimately led to her leaving her matrimonial house along with her children. Anju made allegations that Deepak was demanding Rs. 1 crore as dowry from her father, even though her father had already made the payment of Rs. 4,50,0000 /- to one Rajdip Soan Industries, on behalf of his son-in-law, Deepak, to repay the loan, but then also, he was harassing Anju, the Appellant. Ultimately, the appellant, along with her children, left the matrimonial house in 2010 and started residing on rental premises. According to the appellants-applicants, the Respondent had failed and neglected to maintain them, and they were unable to maintain themselves, demanding a maintenance petition under Section 125 of CrPC.³

LEGAL ISSUES

Is a criminal appeal on the issue of a maintenance petition under Section 125 of the CrPC maintainable or not?

LAWS INVOLVED

The Legislations involved in the case are the provisions of CrPC, i.e., Section 125. The Court made the above observations as the Court felt that the Family Court, in the said case, had conducted the proceedings without being alive to the objects and reasons and the spirit of the provisions under Section 125 of the Code. Article 15(3)⁴ of the Indian Constitution, i.e., "nothing in this article shall prevent the state from making any special provisions for women

² Code of Criminal Procedure, section 125

³ *Anju Garg & Anr v Deepak Kumar Garg* <https://indiankanoon.org/doc/116873845/>

⁴ Constitution of India art 15(3)

and children." Article 39⁵ of the Indian Constitution states that the state will make sure that they provide sufficient sources of subsistence to all people, along with women and children, and equal wages for equivalent work.

CONTENTIONS

Arguments From The Appellant Side

The appellants, i.e. wife and children, filed the Maintenance Petition under Section 125 of CrPC. Seeking maintenance from the Respondent alleging inter-alia that the Respondent was subjecting the appellant-wife to utmost cruelty and physical and mental torture. As a result thereof, she had to leave her matrimonial home along with her children time and again. Allegations were also made against the Respondent that he was demanding Rs. One crore as dowry from the father of the appellant. Despite the fact that her father had provided him with Rs. 2,00,000 in 2005 and had paid Rs. 4,50,000 to Rajdip Soan Industries on the Respondent's behalf in order to settle the loan, the Respondent persisted in harassing the appellant. In the end, the appellant and her kids moved out of the married house in 2010 and began living in a rental property. Respondent refused to acknowledge that he had harassed the appellant by requesting a dowry and money from her father, yet there was ample proof that the appellant's father had given him money. The appellants claimed that the Respondent had ignored and failed to provide for them, and since they were unable to do so, they filed a maintenance petition under section 125.⁶

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Arguments From The Respondent's Side

The Respondent, in his contention, while not denying the marriage with appellant No. 1, i.e., Anju, had denied the allegations with regard to the demand of dowry and harassment. He also denied that he had failed and neglected to maintain the appellants. According to him, the appellant had left her matrimonial home along with the children without any specified reason. The Respondent, while admitting that "The daughter Megha was born out of his wedlock with the appellant, had alleged that the appellant no. 2 Master Rachit was not his biological son."

⁵ Constitution of India art 39

⁶ *Anju Garg & Anr v Deepak Kumar Garg*

https://main.sci.gov.in/supremecourt/2018/43245/43245_2018_9_1501_38622_Judgement_28-Sep-2022.pdf

Judgment By The Court

The Faridabad Family Court on 15.07.2014 had granted an Interim Maintenance Allowance of Rs. 40,000/- per month in favour of the appellants; however, the daughter Megha, having attained majority, no interim maintenance was granted. It appears that Deepak, the Respondent, had filed an application in the Family Court praying for the DNA test to prove his argument that Rachit is not his biological. However, his contention was dismissed by the Family Court. The High Court, however, had not granted a stay on any of the hearings and proceedings of the Family Court. Anju, the appellant, then examined her petition along with the four pieces of evidence and with the support of documentary evidence. The Family Court, after appreciating the said evidence, passed the order rejecting the application of appellant no.1 and her daughter and granting a maintenance allowance of Rs. 6,000/- per month to the appellant no.2. As stated earlier, "being aggrieved by the same, the appellants had preferred the revision application before the High Court, which has been dismissed vide the impugned order."

The Court thereafter had heard the learned counsel for the parties, as also the Respondent, who was present in person in the Court on 16.09.2022. The Family Court, in the present case, took the case in a very casual manner and examined it with the perverted proceedings of the Court. The High Court, unfortunately, confirmed the order of the family court, which led to the matter in an erroneous way. This matter was then passed by the High Court properly because it had been pending for the last four years. Remanding it would further delay the proceedings.

"The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour if he is able-bodied and cannot avoid his obligation, except on the legally permissible grounds mentioned in the statute..." the Supreme Court remarked.⁷

The Respondent Deepak submits the argument through his learned counsel that he has no source of income as his business has been now shut down, but the Court doesn't entertain these submissions from his counsel and rather says that he is an able-bodied, full-fledged working man, can earn handsomely and he is obliged to earn by legitimate means and maintain his wife and the minor child. The Respondent regarded evidence of his wife in family court and had other evidence as well. The Court clearly stated that despite Respondent the having sufficient

⁷Bhuvan Mohan Singh v Meena & Ors (2015)

sources of income and being able-bodied, he failed to provide for his wife and children. Therefore, after considering all these submissions, the Court decided that Respondent would grant the maintenance of Rs. 10,000/- per month to Anju, his wife and above that would grant maintenance of Rs. 6000/- to his son as well.

The Respondent, having regard to the evidence of the appellant-wife before the Family Court and having regard to the other evidence on record, the apex Court has no hesitation in holding that though the Respondent had a sufficient source of income and was able-bodied, had failed and neglected to maintain the appellants. Considering the totality of facts and circumstances, they deemed it proper to grant a maintenance allowance of Rs.10,000/- per month to the appellant-wife, over and above the maintenance allowance of Rs. 6,000/- granted by the Family Court to the son.⁸

⁸ *Anju Garg & Anr v Deepak Kumar Garg*, <https://www.the-laws.com/encyclopedia/browse/case?caseId=002202292100&title=anju-garg-vs-deepak-kumar-garg>