

Supreme Court - Daily Orders

Lalita Toppo vs The State Of Jharkhand on 30 October, 2018

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL APPEAL
LALITA TOPPO

THE STATE OF JHARKHAND
& ANR.

VERSUS

ORDER

NO(S). 1656/2015
...APPELLANT(S)

...RESPONDENT(S)

1. The appellant before us would have an efficacious remedy to seek maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to DVC Act, 2005) even assuming that she is not the legally wedded wife and, therefore, not entitled to maintenance under Section 125 of the Code of Criminal Procedure, 1973. This is because of the provisions contained in Section 3(a) of the DVC Act, 2005 which Signature Not Verified defines the term domestic violence in the Digitally signed by VINOD LAKHINA following terms:

Date: 2018.10.31 16:58:13 IST Reason:

3. Definition of domestic violence.- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it-

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

2. What would be significant to note is that economic abuse also constitutes domestic violence and economic abuse has been defined by Explanation I(iv) to Section 3 of the DVC Act, 2005 to mean:

(iv) economic abuse
includes-

(a) deprivation of all or any

economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a Court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

3. In fact, under the provisions of the DVC Act, 2005 the victim i.e. estranged wife or live-in-partner would be entitled to more relief than what is contemplated under Section 125 of the Code of Criminal Procedure, 1973, namely, to a shared household also.

4. The questions referred to us by the Referral Order were formulated on the basis of the decisions of this court rendered in *Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav* and another¹ and *Savitaben Somabhai Bhatiya vs. State of Gujarat* and others² which were rendered prior to the coming into force of the DVC Act, 2005. In view of what has been stated herein before, it is, therefore, our considered view that the questions referred would not require any answer. We, therefore, decline to answer the said questions. The appellant is left with the remedy of approaching the appropriate Forum under the provisions of the DVC Act, 2005, if so advised. If in the event the appellant moves the appropriate

1. (1988) 1 SCC 530

2. (2005) 3 SCC 636 Forum under the provisions of the DVC Act, 2005, we would request the said Forum to decide the matter as expeditiously as possible.

5. The appeal is disposed of in the above terms.

.....,CJI.(RANJAN GOGOI)J. (UDAY UMESH LALIT)J.

NEW DELHI
OCTOBER 30, 2018

(K.M. JOSEPH)

COURT NO.1

S U P R E M E C O U R T O F R E C O R D O F P R O C E E D I N G S

SECTION II-A
I N D I A

LALITA TOPPO

APPELLANT(S)

RESPONDENT(S)

THE STATE OF JHARKHAND & ANR.

Lalita Toppo vs The State Of Jharkhand on 30 October, 2018

CRIMINAL APPEAL

NO (S) .

VERSUS

1656/2015

Date : 30-10-2018 This appeal was called on for hearing today. CORAM :

HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MR.
JUSTICE K.M. JOSEPH For Appellant(s) Mr. Kaushik Poddar, AOR Mr. Kumar Ranjan, Adv.

Mr. Gautam Singh, Adv.

Ms. Isha Singh, Adv.

For Respondent(s) Mr. Jayesh Gaurav, Adv. Mr. Gopal Prasad, AOR Mr. Shikhil Suri, Adv.

Mr. Shiv Kumar Suri, AOR UPON hearing the counsel the Court made the following O R D E R The
appeal is disposed of in terms of the signed order. Consequently, all pending applications shall stand
disposed of.

[VINOD LAKHINA] [ASHA SONI] AR-cum-PS ASSISTANT REGISTRAR [SIGNED ORDER IS
PLACED ON THE FILE]