

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No. 25999 of 2015
Date of Decision:- 10.08.2015

Gurnam Singh

.....Petitioner

Versus

Gurmail Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. J.K. Singla, Advocate, for the petitioner.

SHEKHER DHAWAN, J (Oral).

Present petition under Section 482 Cr.P.C. for quashing/setting aside of order dated 23.08.2014 (Annexure P-1) passed by learned Judicial Magistrate, First Class, Phul and order dated 10.07.2015 (Annexure P-2), passed by learned Additional Sessions Judge, Bathinda whereby revision petition filed by the petitioner was dismissed.

2. Relevant facts for the purpose of decision of present petition that respondent-Gurmail Kaur is having three sons, namely, Gurdeep Singh, Labh Singh and Gurnam Singh and four daughters, who are married. Husband of Gurmail Kaur died in the year 1984 and mutation of her inheritance was sanctioned in favour of Gurmail Kaur and her three sons, namely, Gurdeep Singh, Labh Singh and present petitioner-Gurnam

Singh. Her two sons Labh Singh and Gurdeep Singh had gone to Dubai long back. Gurnam Singh is the youngest son. Gurmail Kaur was living with Gurnam Singh and said Gurnam Singh after taking Gurmail Kaur in confidence got her land sold and agreed to pay ₹3,000/- per month as maintenance to her. He had also taken possession of her entire money and the jewelery and thereafter starting misbehaving with Gurmail Kaur. Now Gurmail Kaur is living at village Bhairuqa in the house of one sympathizer. Gurnam Singh has got agricultural income also and his total income is ₹1,00,000/-per annum.

3. Petitioner-Gurnam Singh had taken the plea that Gurmail Kaur was having 1/8th share of land measuring 83 kanals 7 marlas at village Bhairuqa. Present petition was filed by Gurmail Kaur to harass him. More so, Gurmail Kaur can dispose of her land and can be maintained herself on the sale proceeds. Both the Courts below returned the finding that Gurnam Singh is son of Smt. Gurmail Kaur. No evidence was available on file that Gurmail Kaur was able to maintain herself and Gurnam Singh is under legal and moral obligation in his capacity as son to earn and maintain her aged mother.

4. Learned counsel for the petitioner mainly took the plea that both the Courts below failed to record their reasonable and valuable findings that Gurmail Kaur is unable to maintain herself and is not entitled for maintenance. More so, Gurnam Singh, who disowned/disinherited from the entire moveable and immovable property, vide advertisement in the newspaper dated 30.10.2008. Application under

Section 125 Cr.P.C. was filed only against petitioner and not against two other sons, namely, Gurdeep Singh and Labh Singh, who are residing in the same village. They are very rich and earlier visited Dubai for last so many years and having sufficient means to easily maintain Gurmail Kaur. So, order dated 23.08.2014 passed by learned Judicial Magistrate, First Class, Phul and order dated 10.07.2015 passed by learned Additional Sessions Judge, Bathinda be set aside.

5. Having considered the submissions made by learned counsel for the petitioner, this Court is of the considered view that Gurmail Kaur had filed an application under Section 125 Cr.P.C., seeking maintenance from her son Gurnam Singh. Gurmail Kaur had come with the plea that she is unable to earn and maintain herself. As per provisions of Section 125 Cr.P.C. Gurmail Kaur is legally entitled to seek maintenance allowance from her son. The order passed by learned Magistrate, First Class as well as order passed by Additional Sessions Judge, Bathinda, do not call for any interference because Gurmail Kaur legally entitled to seek maintenance from her son, as per provisions under Section 125 Cr.P.C. and present petitioner is under legal and moral duty to earn and maintain his aged mother.

6. In view of the above, the orders passed by both the Courts below do not call for any interference and the present petition is hereby dismissed as such.

August 10, 2015
naresh.k

(**SHEKHER DHAWAN**)
JUDGE