

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-19762 of 2012 (O&M)

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Date of decision:11.5.2017

Rajesh Kumar

...Petitioner

v.

Sahil Sahni

...Respondent

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vinod Chaudhary, Advocate for the petitioner.

Mr. Ravindra Jain, Advocate for Mr. Y.P. Singa, Advocate for the respondent.

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Inderjit Singh, J.

The petitioner has filed this petition under Article 227 of the Constitution of India read with Section 482 Cr.P.C. for setting aside the impugned judgment dated 12.4.2012 passed in Criminal Revision No.102 of 2011 by learned Sessions Judge, Yamunanagar.

Notice of motion was issued in this case.

Mr. Ravindra Jain, learned Advocate appearing for Mr. Y.P. Singla, learned Advocate has put in appearance on behalf of the respondent and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

A perusal of the record shows that Sahil Sahni is the son of the

petitioner Rajesh Kumar. Earlier when he was minor, he sought maintenance from his father as there was a matrimonial dispute between the parents of Sahil Sahni. This Court in Criminal Revision No.1693 of 2007, decided on 22.11.2008, held as under:-

“While upholding the judgment of the Additional Sessions Judge whereby he has set aside the order passed by the Magistrate, the part of the direction issued by the Court remanding the case back for further trial by Magistrate would call for interference. This Court, while exercising its revisional jurisdiction, would have suo-motu power to do substantial justice between the parties. To bring an end to the agony of this young child, the proceedings need to be brought to an end. He need not to establish his right any further before the Magistrate. Considering the prayer made in the petition and the requirement of respondent-child, I am of the view that sum of Rs.2,500/- be paid as maintenance to the child from the date of application till the date he is entitled to receive the same.”

After passing of this order, again an application was filed by Sahil Sahni for enhancement of the amount. The learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, dismissed the application vide order dated 9.7.2011. Against that order Sahil Sahni filed the revision petition before the learned Sessions Judge, Yamuna Nagar at Jagadhri. The learned Sessions Judge, Yamuna Nagar vide the impugned judgment dated 12.4.2012 accepted the revision petition and directed Rajesh Kumar, father,

who is now petitioner, to pay the amount of maintenance to Sahil Sahni @ ₹2,500/- per month granted by the Hon'ble High Court till he completes his studies.

The main point for determination arose in the present petition before this Court is whether son is entitled to any maintenance after attaining the majority for the purpose of studies etc. or not. The order passed by this Court earlier on November 22, 2008 has nowhere decided this point. Rather, it was stated that child be paid maintenance from the date of application till the date he is entitled to receive the same. The learned Magistrate interpreted this order that Sahil Sahni is entitled to maintenance upto the age of majority whereas the learned Sessions Judge interpreted the order that till the major son completes his studies he is entitled to maintenance.

The learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in Amarendra Kumar Paul v. Maya Paul and others, 2010 Cr.L.J. 395, in which the Hon'ble Supreme Court held that children will be entitled to maintenance till the age of attaining majority and the daughter till she was married. In paragraph 18 of this judgment, it is held as under:-

“It is clear from the order of the learned Magistrate that no order of maintenance was passed in favour of the children after they attained majority. In that view of the matter, the question of recovery of any amount from the petitioners towards the maintenance granted to the children after they had attained

majority does not arise. In this case the direction has been issued to recover the amount of maintenance only for the period prior to the sons' attaining majority and the daughters getting married and hence no inference with the impugned judgment, in this behalf, is called for.”

Learned counsel for the petitioner has also placed reliance on the judgement of the Hon'ble Supreme Court in Noor Saba Khatoon v. Mohd. Quasim, 1997 (3) R.C.R. (Criminal) 756, where also it is held by the Hon'ble Supreme Court that wife is entitled to claim maintenance under Section 125 Cr.P.C. from her divorced husband in respect of children till they attained majority or are able to maintain themselves. In case of female children the obligation extends till their marriage.

Keeping in view the law laid down by the Hon'ble Supreme Court, I find that the impugned judgment dated 12.4.2012 passed by the learned Sessions Judge, Yamuna Nagar at Jagadhri is not as per law and the same is set aside.

Finding merit in this petition, the same is allowed. Sahil Sahni is not entitled to maintenance after attaining the age of majority.

May 11, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	Yes