

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR No.4180 of 2015 (O&M)

Date of decision: 23.02.2017

Balbir Singh

....Petitioner

Versus

Dhiraj

....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Tejinder Pal Singh, Advocate
for the petitioner.

REKHA MITTAL J. (Oral)

The present petition directs challenge against orders dated 04.07.2013 passed by the Judicial Magistrate Ist Class, Ludhiana and dated 03.07.2015 by the Additional Sessions Judge, Ludhiana whereby petition under Section 125 of the Code of Criminal Procedure (in short 'Cr.P.C.') for grant of maintenance filed by minor Dhiraj son of the petitioner was allowed and he was awarded maintenance @ Rs.2,000/- per month and the judgment passed by the trial Court was affirmed in appeal.

The sole submission made by counsel for the petitioner is that marital discord between the petitioner and his wife Smt. Amandeep Kaur was settled by way of compromise. They filed a joint petition for divorce by way of mutual consent and in those proceedings, Amandeep Kaur received an amount of Rs.3,00,000/- for herself and the minor child. It is further submitted that as Smt. Amandeep Kaur had compromised the matter and received an amount of Rs.3,00,000/-, the respondent cannot be held entitled to get maintenance from the

petitioner.

I have heard counsel for the petitioner and perused the paperbook particularly the orders impugned.

The learned trial Court framed an issue “Whether Amandeep Kaur being the mother can waive right of maintenance of minor petitioner and this petition is not maintainable? The said issue was answered by the Court below in favour of the minor and against the petitioner and the minor was held entitled to get maintenance @ Rs.2,000/- per month. Counsel for the petitioner has failed to cite any precedent much less a statutory provision that creates an estoppel against a minor to claim maintenance even if the mother has entered into a compromise and received money from her husband in view of compromise. In this view of the matter, I do not find any error much less illegality in the consistent findings recorded by the Courts holding in favour of the minor with regard to his entitlement to get maintenance from his father.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed.

(REKHA MITTAL)
JUDGE

23.02.2017
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No