

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3307-2018 (O&M)
Date of Decision: 10.05.2018

Kuljas Rai

....Petitioner

Versus

Sunita Sharma and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Tarun Vir Singh Lehal, Advocate
for the petitioner(s).

ANITA CHAUDHRY, J

Petitioner has assailed the order granting interim maintenance to the wife and major daughter.

The petition was not pressed *qua* the amount allowed to respondent No.1(wife). The submission is that the major unmarried daughter was not entitled to maintenance.

Learned counsel for the petitioner refers to '*Usha and others Vs. Mahendra Pal Singh and another 2010(70) AcrC 686*', '*Smt. Saroj and others Vs. Narender Kumar (CR-3222-2010) decided on 20.11.2012*' and '*Sushila Bai and another Vs. Bisauharam decided on 01.09.2009*' and urges that a major daughter, even if unmarried, is not entitled to maintenance.

While dealing with the question of award of maintenance to an unmarried daughter after attaining the age of majority, the Apex Court in

'**Jagdish Jugtawat Vs. Manju Lata and others 2002(6) BCR 189**', dismissed the S.L.P. filed against the award of maintenance to the major unmarried daughter under [Section 125](#) of the Code. Paras 3 & 4 of the said judgment read thus:-

"3. In view of the finding recorded and the observations made by the learned Single Judge of the High Court, the only question that arises for consideration is whether the order calls for interference. A similar question came up for consideration by this Court in the case of Noor Saba (supra) relating to the claim of a Muslim divorced woman for maintenance from her husband for herself and her minor children. This Court while accepting the position that Section 125 CrPC does not fix liability of parents to maintain children beyond attainment of majority, read the said provision and Section 3(1)(b) of the Muslim Women (Protection of Rights on Divorce) Act together and held that under the latter statutory provision liability of providing maintenance extends beyond attainment of majority of a dependent girl.

4. Applying the principle to the facts and circumstances of the case in hand, it is manifest that the right of a minor girl for maintenance from parents after attaining majority till her marriage is recognized in Section 20(3) of the Hindu Adoptions and Maintenance Act. Therefore, no exception can be taken to the judgment/order passed by the learned Single Judge for maintaining the order passed by the Family Court which is based on a combined reading of Section 125 CrPC and Section 20(3) of the Hindu Adoptions and Maintenance Act. For the reasons aforesaid we are of the view that on facts and in the circumstances of the case no interference with the impugned judgment/order of the High Court is called for."

Further, while dealing with same question and the word 'injury' in the matter of '**Rama Chandra Sahu Vs. Tapaswini Sahu, 2007(4) R.C.R. (Criminal) 1017**', the Orissa High Court has held that word 'injury' need not

necessarily denote physical injury and it has to be read in context of inability to maintain. Therefore, as held in the matters of '*Noor Suba Khatoon Vs. Mohd. Quasim, 1997(3) R.C.R. (Criminal) 756*' & *Jagdish* (supra), unmarried daughters are entitled for maintenance even after attainment of the age of majority till they get married.

Section 125 of the Code is a beneficial legislation to protect the dependent from vagrancy and destitution. In case of children viz., male till attainment of the age of majority and in case of female till the marriage, but if the daughter is unable to maintain herself by reason of any physical or mental abnormality or injury she is entitled for maintenance till she gets married even after attainment of majority, however, she is required to prove the fact that she is unable to maintain herself and her father is having sufficient means to maintain her. If a minor daughter is unable to maintain herself till the age of her majority and after attainment of majority she is not able to maintain herself, then her inability to maintain herself does not cease automatically and such inability to maintain herself makes her entitled to maintenance from her parents even after the attainment of her age of majority.

For the foregoing reasons, unmarried daughter is entitled for maintenance even after attaining the age of majority till her marriage but she is required to prove her inability to maintain herself. In the present case, the Magistrate had allowed only a sum of Rs.2,000/- per month to the major daughter.

Counsel had referred to the statement made by the daughter on 20.09.2017 but that statement was given after the order was passed. There is an admission that she was working. It is for the trial Court to examine at the

final stages whether the salary earned by the daughter was enough for her sustenance. Reference has also made here to '**Haribhai Shambhubhai Bhuva Vs. State of Gujarat and others 2015(3) R.C.R.(Criminal) 326'** and '**Amarendra Kumar Paul Vs. Maya Paul, (SC), 2010 CriLJ 395'**.

The petition is dismissed in *limine*.

May 10, 2018

ps-I

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No