

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

Crl. Misc. M-33687 of 2017 (O&M)  
Date of Decision: May 21, 2018

Hardeep Singh

...Petitioner

Versus

Tehzeeb Kaur

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. P.P.S. Duggal, Advocate  
for the petitioner.

Mr. Nakul Sharma, Advocate  
for the respondent.

\*\*\*\*\*

**JAISHREE THAKUR, J. (Oral)**

1. Aggrieved against the order dated 25.07.2017, declining to adjust the amount of ₹ 5 lacs deposited in compliance of the order passed by the Apex Court towards maintenance of the child under Section 125 Cr.P.C., the instant petition has been filed.

2. Briefly, the marriage was solemnized between the petitioner herein and Dilpreet Kaur on 22.09.2012, out of which marriage one child namely Tehzeeb Kaur, respondent herein was born on 31.08.2013. On account of demand of dowry, the wife was thrown out of the matrimonial home, leading to registration of FIR No.49 dated 11.07.2014, registered at Police Station Women Cell, Jalandhar City, under Sections 406, 498-A of

Indian Penal Code. The petitioner herein applied for anticipatory bail, which came to be rejected by the Sessions Court, which was challenged before the High Court in CRM-M-38074 of 2014 and the same was dismissed on 02.12.2016. Thereafter, the petitioner approached the Apex Court by way of filing SLP (Crl.) No.63 of 2017, which was also dismissed giving liberty to the petitioner to surrender and pray for regular bail, which was to be decided on the same date. While dismissing SLP, it was observed that

*“We find no reason to entertain this special leave petition, which is accordingly, dismissed.*

*However, the petitioner is granted liberty to approach the Trial Court since according to the petitioner, being a case of the year 2014, the investigation has almost reached the final stage. It will be open to the petitioner to surrender and pray for regular bail, in which case the application by the petitioner will be decided preferably on the same day.*

*If the petitioner pays to the complainant/wife an amount of Rs.5,00,000/- (rupees five lacs) towards maintenance for the child, within a period of four weeks from today, the petitioner shall be granted protection from arrest, till the application for regular bail is considered by the Trial Court.*

*Pending application (s), if any, shall stand disposed of.”*

In terms of the order dated 13.01.2017 passed by the Apex Court, a sum of ₹ 5 lacs by way of cheque was paid to the complainant therein. During the pendency of these proceedings under the FIR and for

grant of anticipatory bail, minor daughter Tehzeeb Kaur had instituted a case on 05.02.2015 for grant of maintenance under Section 125 Cr.P.C. in which interim maintenance was allowed by an order dated 27.01.2017. The petitioner was directed to pay a sum of Rs.7000/- per month to Tehzeeb Kaur being daughter of the petitioner herein. Since the petitioner failed to make that payment of interim maintenance, an execution petition was preferred bearing case No.565 of 2017 claiming a sum of ₹ 1,80,500/-. In the said execution proceedings, objections were filed by the petitioner herein claiming that he had already deposited a sum of ₹ 5 lacs towards maintenance of the child, in terms of the order dated 13.01.2017 passed by the Apex Court and therefore, the said amount should be adjusted, which objections were dismissed by the impugned order dated 25.07.2017. Being aggrieved against the said order, the instant petition has been filed.

3. Mr. P.P.S. Duggal, learned counsel appearing on behalf of the petitioner contends that he has already deposited a sum of ₹ 5 lacs for maintenance of the child in terms of the order passed by the Apex Court and therefore, the executing court has erred in not making the necessary adjustment.

4. Per contra, Mr. Nakul Sharma, learned counsel appearing on behalf of the respondent would contend that the petitioner herein is liable to pay maintenance under Section 125 Cr.P.C. as has been assessed by the court and the amount of maintenance paid in terms of the order dated 13.01.2017 passed by the Apex Court was only on account of granting the relief of bail.

5. I have heard learned counsel for the parties and with their assistance perused the pleadings.

6. The only question that arises for determination is whether the petitioner herein is entitled to the adjustment of ₹ 5 lacs deposited in terms of the order passed by the Apex Court, in the proceedings under Section 125 Cr.P.C. wherein he is to pay ₹ 1,80,000/-. The respondent herein is the minor daughter of the petitioner, who instituted a petition under Section 125 Cr.P.C. on 05.02.2015 seeking maintenance before the Judicial Magistrate Ist Class, Jalandhar. It is interesting to note that wife has not moved an application since, she is financially secure. The petitioner herein was seeking the benefit of anticipatory bail in FIR No.49 dated 11.07.2014, registered at Police Station Women Cell, Jalandhar City, under Sections 406, 498-A of Indian Penal Code and during the mediation process in the High Court in Criminal Misc. M-38074 of 2014, the following order came to be passed;

*“Parties are present in person. The petitioner states that he is very keen to rehabilitate the marriage. The complainant on the other hand states that it would not be possible for her to rehabilitate the marriage but she would not be averse to a settlement whereby the petitioner may make arrangements for the minor daughter who is two years old. She has reiterated that she does not want anything for herself and whatever deposit the petitioner will make would be put in a fixed deposit for the benefit of the minor daughter and only interest would be used for her upbringing and maintenance. The petitioner prays for a short*

*adjournment to respond to this.*

*Adjourned to 22.12.2015.*

*Let parties to the marriage be present in Court on the next date.”*

However, the criminal miscellaneous petition seeking anticipatory bail ultimately was dismissed and the matter was taken up before the Apex Court, where the order was passed, as reflected above. The petitioner, who had been declined the relief of anticipatory bail by the Apex Court was granted limited protection from arrest till his application for regular bail was considered by the trial court, if he deposited an amount of ₹ 5 lacs towards maintenance for the child.

7. A minor child is entitled to seek maintenance from her/his parents under Section 125 Cr.P.C. as well as under the Hindu Adoption and Maintenance Act. Section 125 Cr.P.C. contains summary and quick remedy for securing some reasonable sum by way of maintenance, in order to protect the destitute wife/minor child/old age parents against starvation. These provisions are intended to fulfill a social purpose. By providing a simple speedy but limited relief, the legislation seeks to ensure that the neglected wife and children are not left destitute and thereby driven to a life of vagrancy, immorality and crime for their substance.

8. In the instant case, the objections were rightly dismissed since the maintenance deposited in terms of the order of the Supreme Court was not in order to discharge any statutory liability or perform a moral duty and was only in self interest of securing regular bail. It is worthwhile to note that the minor child was not a party to the *lis* in the FIR. It is also

worthwhile to note that the petitioner, who is aware that maintenance proceedings had been initiated, did not at the relevant time before the Supreme Court make a statement that maintenance would be deposited and the same should be adjusted against the proceedings pending under Section 125 Cr.P.C. Therefore, this court is of the view that the amount deposited in terms of the order of the Apex Court, should not be adjusted towards the maintenance as has been awarded under Section 125 Cr.P.C. to the minor daughter. The respondent is entitled under the said statute to claim maintenance and there is no order of set off.

9. In view of the above, the petition in hand is hereby dismissed, being devoid of any merits.

**May 21, 2018**  
*vijay saini*

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No