

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

1. CRR-2232-2015
Mina Johl ...Petitioner
Versus
Ajay Pal Johl ...Respondent

2. CRM-M-31512-2016
Mina Johl ...Petitioner
Versus
Ajay Pal Singh Johl ...Respondent

Date of Decision: - 01.06.2018

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: - Mr. Raman Mahajan, Advocate, for the petitioner.

Mr. S.S. Narula, Advocate, for the respondent.

MAHABIR SINGH SINDHU, J.

This order shall dispose of the above two petitions having been arisen between the same parties against the common order of interim maintenance dated 26.05.2015 under Section 125 of the Code of Criminal Procedure, 1973 (for short “Code”).

2. Petitioner-Mina Johal is the daughter of respondent-Ajay Pal Singh Johal.

3. With the consent of both the parties and for convenience, the facts are being taken from CRM-M-31512-2016.

4. The first petition i.e. CRR-2232-2015 has been filed under Section 401 of the Code for enhancement of interim maintenance to the tune of Rs.2,00,000/- (Two Lakhs) per month against the impugned order dated 26.05.2015, passed by learned Judicial Magistrate 1st Class, Panchkula whereby petitioner has been granted the interim maintenance of Rs.25,000/- per month (Twenty Five Thousand) from the date of the filing of the application i.e. 03.04.2015.

5. Second petition i.e. CRM-M-31512-2016 has been filed by the petitioner under Section 482 of the Code for quashing of the impugned order dated 13.05.2016, passed by learned Additional Sessions Judge, Panchkula whereby the revision petition filed by the respondent-father has been allowed and the above order of interim maintenance dated 26.05.2015 has been set aside.

6. The facts of the case are that the petitioner filed an application dated 03.04.2015 for interim maintenance with the averments that she was born on 27.10.1985 and has attained the age of majority. She completed her graduation in Civil Engineering from the Punjab Engineering College, Chandigarh (for short "PEC") and the petitioner is the only offspring of her parents and at present she is neither employed; nor having any source of income since 18.02.2015, but prior thereto she was working with one Oil Field Company (Schlumberger) based at Mumbai and at that time getting a salary of Rs.1,77,000/- per month.

Also averred that her posting was as an Engineer in Egypt in September, 2007 and thereafter posted at Ahmedabad and thereafter, w.e.f. May, 2011 she remained posted at Mumbai. It is also submitted that w.e.f. 17.02.2015, the petitioner was sent on forced leave by her employer and thereafter, w.e.f. March 20, 2015, her employment was suspended till 19.03.2016 with the specific directions that she will not be getting any remuneration during this period and even the medical expenses and life insurance coverage have also been terminated by her employer. Further pleaded that due to recession in the Oil Field Company, her employer has reserved its right to terminate the employment during suspension period.

7. Again pleaded that respondent-father had filed a divorce petition against her (petitioner) mother, but was dismissed up to the Hon'ble Supreme Court and a reference is made to some of observations made by this Court that in case the divorce is granted to the respondent-father, life of their daughter-petitioner will become very difficult.

8. It is further pleaded that petitioner is improving her qualifications by taking up part-time online course in Management with Wharton University, U.S.A. and part of the fee has been remitted in the US Dollars and she is also contemplating and looking forward to start her online course i.e. Effective Leadership Skills by INSEAD University, France and the fee is very high which is to be remitted through US Dollars. It is further pleaded that the petitioner is also contemplating to pursue her MBA from the reputed University and requires substantial amounts from the respondent to achieve her object of pursuing and

improving the qualifications so that she can settle in her life gracefully.

9. It is further pleaded that respondent is a resourceful person, living very comfortable and princely life being an Architect of repute as he has set up Foliage Design and Developers Pvt. Ltd. in the year 1989 and the portfolio of the said company is described as under:-

“Foliage Design was found in 1989. Foliage Design is one of the more established Architecture, Landscape design, interior design, Gold Course design & Environmental Consultancies in INDIA. Our team has Technical, CAD, Horticulture and Administrative backup for the overall control and execution of project. Office is located in Chandigarh, India. Foliage Designs dedicated team, led by Ajai Johl and spearheaded by Hardial Singh together with our senior executive Col. R.S. Rattan and our touring professional Amandeep Johl & Associates DDV GOLF, Ruimsig, South Africa, Just Interiors, Chandigarh”.

10. It is also pleaded that respondent is having number of elite luxury cars and a lavish bungalow known as Foliage Farm in the posh locality of I.T. Park Road, U.T. Chandigarh in addition to many acres of ancestral land in the State of Punjab and recently he has purchased the Mercedes Benz car. Specifically pleaded that even the life style of the respondent has been circulated in an Indian Design Magazine - “Inside Outside” and he is having multiple bank accounts, membership of elite clubs and spending more than Rs.2,00,000/- (Two Lakhs) per month while enjoying holidays in India as well as abroad and thus, frequent traveller which can be proved from his passport. Thus, petitioner claimed interim maintenance of Rs.2,00,000/- (Two Lakhs) per month from the respondent which includes food, clothing, education, medical treatment

etc. in view of the status of the parties.

11. The respondent filed reply and inter alia raised the preliminary objections that the petitioner is aged about 30 years and graduate in Civil Engineering. Further submitted that she was employed with Oil Field Company Schlumberger, posted in Mumbai and prior thereto in Egypt and drawing a salary of more than Rs.2,00,000/- (Two Lakhs) per month. It is denied that after 18.02.2015, the petitioner is having no source of income. It is also pleaded that there is serious matrimonial dispute between respondent and his wife. Again it is submitted that the petitioner is well qualified, able to earn and thus, not entitled for any maintenance. Also pleaded that mother of the petitioner is qualified Architect, engaged in profession since 1984 with good earning and she is handling large projects and having monthly income of more than Rs.6,00,000/- (Six Lakhs), besides, *Istridhan* worth crores of rupees. The income tax returns have been produced by the respondent for the years 2012-13, 2013-14, 2014-15 as Annexures R-1 to R-3.

12. On merits, the date of the birth of the petitioner has been admitted. Regarding qualifications, employment with the Oil Field Company and salary etc. the submissions made in preliminary objections have been repeated.

It is further submitted that the petitioner is still under the employment of German Oil Field Company, namely, Schlumberger. The factum of dismissal of divorce petition filed by respondent up to the Hon'ble Supreme Court is admitted. Further admitted by respondent that he is an Architect by profession, but submitted that on account of

litigation with his wife, he is not able to devote much time to his profession. Also submitted that he is having low cost mud house in Village Kishangarh, Manimajra, UT Chandigarh with a covered area of 1600 square feet. The factum of being member of Chandigarh Golf Club as well as Chandigarh Club is duly admitted, but at the same time submitted that the membership were acquired more than 25 years back. Further submitted that respondent is trying to regain his lost business by undertaking professional tours to foreign countries so that the same can be revived. Lastly submitted that the petitioner is not entitled for any interim maintenance.

13. Learned JMIC, after taking into consideration the fact that the respondent has disclosed his net annual income to the tune of Rs.9,00,000/- (Nine Lakhs) per annum, came to the conclusion vide order dated 26.05.2015 that petitioner is entitled for interim maintenance of Rs.25,000/- (Twenty Five Thousand) per month from the date of application i.e. 03.04.2015.

14. Aggrieved against the order dated 26.05.2015, the respondent-father preferred a Criminal Revision No.134 of 2015 and the same was allowed by learned Additional Sessions Judge, Panchkula, vide order dated 13.05.2016 while observing as under :-

“In the present case, the respondent/petitioner is capable to maintain herself as she was doing the job in which she was earning approximately Rs.2 Lakhs per month. Merely, one company has been suspended her job, is not become the ground that she is not able to maintain herself. She is admittedly Civil Engineer and having the

experience of 8 years in the Multi National Corporation, in these circumstances, she can easily join in any other Company with the handsome salary. Moreover, she is neither physically nor mentally abnormal, more so, there is no such injury to her which compel her or make her unable to maintain. The case law submitted by the respondent/petitioner is not applicable in the present case. As there is no pleading on the part of respondent/petitioner that she is physically or mentally abnormal or there is any injury which make her unable to maintain. Hence, the trial Court has failed to appreciate the law and erroneously decided that respondent/petitioner is entitled to receive Rs.25,000/- per month as maintenance. Thus, the order dated 26.05.2016 is hereby set aside by way of accepting the present revision petition and this Court has the opinion that the respondent/petitioner is not entitled to get the maintenance under section 125(1)(c) CrPC.”

In view of the above factual background, the matter has travelled to this Court by way of the above two petitions.

15. It is contended on behalf of the petitioner that learned Additional Sessions Judge, Panchkula has committed a grave illegality while setting aside the well reasoned order dated 26.05.2015 passed by learned Judicial Magistrate 1st Class, Panchkula only on the basis of conjectures and surmises while recording the findings to the effect that “she is admittedly Civil Engineer and having the experience of eight years in the Multi National Corporation, in these circumstances, she can easily join in any other Company with the handsome salary.” It is further argued that in view of the provisions of Section 125 of the Code the petitioner cannot be denied the interim maintenance merely on the ground

that she is qualified and has attained the age of majority. Also argued that petitioner has been suffering from the “injury” at the hands of the respondent-father for the last 25 years being a neglected child and thus entitled for interim maintenance of Rs.2,00,000/- (Two Lakhs) per month in view of the status of the parties and means of respondent.

16. On the other hand, learned counsel for the respondent has opposed the submissions of petitioner and contended that impugned order dated 13.05.2016, passed by learned Additional Sessions Judge is well reasoned, legally sustainable and does not require any interference by this Court. Further contended that petitioner has attained the age of majority being 30 years of age and well qualified for seeking employment and thus can maintain herself very well. Also argued that petitioner is not suffering from any physical or mental abnormality or injury and thus, her case is not falling within the purview of Section 125(1)(c) of the Code. It is further argued that the petitioner is living with her mother for the last approximately 25 years and thus, at this stage, she cannot claim any maintenance from the respondent-father.

17. Heard both sides and perused the record.

18. The points for consideration in both the cases are as under:

- “i. Whether in view of the facts and circumstances of the present case, the petitioner having attained the age of majority, but being unmarried daughter is entitled for interim maintenance under Section 125 (1)(c) of the Code from the respondent-father or not?
- ii. If point No.1 is decided in affirmative, then for how much interim maintenance, she is entitled?”

19. Before proceeding further in the matter, it is necessary to mention here that the provisions of Section 125 of the Code are for social justice and specially enacted to protect women and children and reference in this regard can be made to para 9 of the judgment, rendered by Hon'ble Supreme Court, in case of **Ramesh Chander Kaushal Vs. Veena Kaushal**, 1978 (4) SCC 70 and the same reads as under: -

“9. This provision is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39. We have no doubt that sections of statutes calling for construction by Courts are not petrified print but vibrant words with social functions to fulfil. The brooding presence of the constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social relevance. So viewed, it is possible to be selective in picking out that interpretation out of two alternatives which advance the cause--the cause of the derelicts.”

20. It is also settled by Hon'ble Supreme Court that a daughter is entitled for maintenance from her parents after attaining the age of majority till her marriage and reference in this regard can be made to the judgment rendered by a Bench of three Hon'ble Judges, reported as **Jagdish Jugtawat Vs. Manju Lata**, (2002) 5 Supreme Court Cases 422 and in that case, the precise question was as under: -

“By the order passed on 23-2-2001, notice was issued to the respondents to show cause why the order granting maintenance in favour of Respondent No.3 Kumari Rakhi shall not be modified to the extent that she is entitled to receive maintenance only till she attains majority.”

The Hon'ble Supreme Court while answering the above

question, in paragraphs 3 and 4 of the above judgment held as under: -

“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 Khatoon v. Mohd. Quasim* 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 Cr.P.C. 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 of 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 Cr.P.C. 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.”

21. To decide the matter in controversy, it is necessary to reproduce Section 125 of the Code and which reads as under:-

“125. **Order for maintenance of wives, children and parents:** - (1) If any person having sufficient means neglects or refuses to maintain-

- (a) his wife, unable to maintain herself, or
- (b) his legitimate or illegitimate minor child, whether

married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit from time to time.

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.- For the purposes of this Chapter,-

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875); is deemed not to have attained his majority;

(b) "wife" includes a woman who has been

divorced by, or has obtained a divorce from,
her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole, or any part of each month's, allowances for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.- If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No Wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, from her husband under this section if she is living in adultery, or if, without any

sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.”

Clause (c), Sub-Section 1, Section 125 of the Code *inter alia* lays down that if any person having sufficient means neglects or refuses to maintain his child (not being a married daughter) who has attained majority, but by reason(s) of any physical or mental abnormality or injury unable to maintain himself/herself, the Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of such child, at such monthly rate, as the Magistrate thinks fit from time to time.

Further provided that the Magistrate may, during the pendency of the proceedings, order such person to make a monthly allowance for the interim maintenance of such child and the expenses of such proceedings which the Magistrate considers reasonable from time to time.

It is apparently clear that in terms of Clause (c), sub-Section 1, Section 125 of the Code, a major daughter, who is unmarried, can claim maintenance from her father where she is unable to maintain herself by reason of any “physical or mental abnormality or injury”. Although the word “injury” has not been defined anywhere under the Code, but Section 2(y) thereof envisages that “words and expressions” used herein and not

defined, but defined in the Indian Penal Code (45 of 1860) (for short “IPC”) have the meanings respectively assigned to them in the Code. Thus, by taking a cue from the provisions of Section 2(y) of the Code, the definition of word “injury” as contained under Section 44 of the IPC can be pressed into service and which reads as under:-

“Section 44. “Injury”. - The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.”

Still further, Section 43 of the IPC defines the word “illegal”, which is like this: -

“The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action”

22. In the present case, admittedly the petitioner has attained the age of majority, but is unmarried daughter of the respondent and thus the initial point for determination is as to whether the petitioner is unable to maintain herself by reason of any “injury”?

Undisputedly, the mother of the petitioner and respondent-father got married on 14.10.1984 and the petitioner is the only offspring of their parents, born on 27.10.1985. Divorce petition was filed by respondent-father against his wife (Meera Johl) on 22.04.1997 by alleging the grounds of cruelty and desertion and at that time, the petitioner was less than 12 years of age. After a fierce legal battle, the divorce petition was dismissed by learned Family Court and an appeal bearing FAO-129-M-2001 against that was dismissed by this Court on 01.12.2010 and jointly stated by both the parties, that matter has attained finality up

to the Hon'ble Supreme Court. During all this period, the petitioner has remained in the care and custody of her mother and thus, obviously she have undergone the tremendous psychological sufferings and trauma being a testimony to the litigation initiated by the respondent-father. In these circumstances, this Court can very well infer the mental condition and agony of the petitioner, which she has undergone throughout her life in the past 20 years. The facts are quite apparent that petitioner could not enjoy the company of her parents as a normal child and she remained neglected and deprived of love and affection by the respondent. Resultantly, the most valuable and natural right of a child to enjoy the company of her parents has been washed away and that is still continuing. In the society, such a child suffers "injury" to their mind and reputation. The petitioner has been kept at bay since her childhood till date by respondent and she was neither allowed to enjoy the company of parents; nor there is anything on record that respondent had ever made any effort to secure her custody so that she can enjoy the comforts of life and property owned by the respondent. The very fact that petitioner has been neglected by the respondent for the last about 25 years and now being refused even the monthly maintenance for her survival and improvement of educational qualification itself is an indicator of "injury" caused to her by respondent within the purview of Clause (c), Sub-Section 1, Section 125 of the Code and the same is still continuing.

23. As per our old ethos and Indian culture, the father is responsible for maintenance of her daughter right from day one when she

is born and that will continue up to her marriage. If the father who is capable to maintain her daughter, abdicates his duties while not maintaining her till she is married, on the lame excuses that the daughter has attained the age of majority, or that she is qualified, or that she can get a job, then it is not conceivable as to who will maintain such a daughter? Thus, in such a scenario, the daughter will be at the risk of an imminent peril being most vulnerable in the society.

24. Chapter-9.3 of Manusamriti (by Dr. R.G. Chaturvedi, Universal Law Publishing Company, 2010 Edition) reads as under: -

“पिता रक्षति कौमारे, भर्ता रक्षति यौवने ।

रक्षन्ति स्थविरे पुत्रा, न स्त्री स्वातन्त्र्यमर्हति ।

(Pita rakshati Kaumare

Bharta rakshati yauvane

rakshanti sathvire putra,

Na stri svatantryamarhati)”

“Father is her guardian till she is virgin, husband is guardian when wedded becomes she, the son assume guardianship when she gets old, and the concept of guarded women must ever prevail.”

Perusal of the above “*Saloka*” clearly reveals that father is the guardian of his daughter till she is married and he remains under obligation to maintain her irrespective of attaining the majority.

Still further, in P.V. Kane's, History of Dharmasastra (3rd Edition), Volume-III, Chapter-XXXI, it is mentioned that Kautilya's Arthshasastra prescribes: -

“If a man being able fails to maintain a child or wife, parents, minor brothers and sisters, unmarried daughters, widowed daughters, when these are not, *patita*, should be fined 12 *panas*.

25. Although, the petitioner is claiming maintenance under the provisions of Section 125 of the Code, but it is necessary to make a reference to the provisions of Section 20 of the Hindu Adoptions and Maintenance Act, 1956 (for short “Act of 1956”) and which reads as under: -

“Section 20. Maintenance of children and aged parents. --

(1) Subject to the provisions of this section a Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

(2) xxxx

(3) The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of this or her own earnings or other property.”

Perusal of Section 20 of the Act of 1956 reveals that a major daughter can claim maintenance from her father till she is married in case unable to maintain herself. Undisputedly, both the parties are governed under the provisions of Section 20 of the Act of 1956. Consequently, this Court is of the opinion that in such like matter(s), for arriving at a just decision, which ultimately goes in favour of the daughter, the provisions of Section 20 of the Act of 1956 can be taken into consideration as the same will be in consonance with the object of Section 125 of the Code being a social legislation. Therefore, on that count also the petitioner is entitled for interim maintenance as it is clearly established that in the present she is not earning anything and thus unable to maintain herself.

26. There is another unsavory aspect of the matter to be noted that after passing of the order dated 13.05.2016 by learned Additional Sessions Judge, Panchkula, an application was moved by the respondent-father for refund of interim maintenance amount of Rs.1,75,000/-, which was received by the petitioner in pursuance of order dated 26.5.2015 and the same was allowed by learned ACJM, vide order dated 16.12.2016 instead of deciding the main petition and ultimately, the same was refunded to the respondent by the petitioner. The above step taken by the respondent clearly reveals that the petitioner is being treated by him as a *persona non grata* and thus the same cannot be appreciated being against the very concept of fatherhood and against all canon of equity.

27. The arguments of the learned counsel for the respondent that petitioner is not entitled for any maintenance on account of the fact that she remained in the company of her mother for the last 25 years and at this stage it does not behove her to claim the maintenance from respondent is not acceptable. Although, at the first blush, the argument seems to be attractive, but liable to be rejected, as this cannot be a ground to deny the benefit of social legislation to the petitioner only on the ground that she has been residing with her mother for the last more than 25 years. The reason is that she had no choice left for her survival and it was only her mother who had taken care of the petitioner during all these hard days and the respondent-father successfully escaped from his moral as well as legal obligations to maintain the only daughter. Therefore, merely that the petitioner remained in the company of her mother for the

last 25 years is no ground to deny her the benefit of interim maintenance under the provisions of Section 125 of the Code and reference in this regard can be made to the judgment rendered by a Full Bench of this Court in case titled **Balbir Singh and others Vs. Hardeep Singh, 1975 PLR, 727** and relevant paragraph No.22 of the same reads as under: -

“22. Having regard to the provisions of Section 488, Code of Criminal Procedure, and the ratio of the decisions to which reference has already been made, the position of law may be summarised as follows:

- (1) If the child was living with the mother who was its natural guardian, the father is bound to maintain it and it is not open to him to impose a condition that the child must live with him.
- (2) Even in a case where the father is the natural guardian, but the child is in the custody of the mother, father's obligation to maintain the child subsists and he cannot impose a condition requiring the child to come and live with him in case the child has not attained the age of discretion or is not living with the mother of its free will or volition.
- (3) In such a case, in order to escape his liability to pay maintenance allowance, the father must obtain the custody of the child from the proper Court, but till the custody is obtained, the child must be maintained wherever it is.
- (4) Father's liability to maintain the child does not cease merely because the child has attained the age of discretion but is living with the mother on account of natural love and affection or attachment with her. Till the father gets the custody of the child, it can successfully claim maintenance.”

Thus, in view of the law laid down in **Balbir Singh's** case (supra), this argument is also liable to be rejected.

28. Petitioner has duly proved on record that she has been granted admission by foreign university for higher studies and she is not

able to maintain herself. It has also come on record that respondent-father is having the annual income of Rs.9,00,000/- (Nine Lakhs) per annum. Relationship between the parties is also an admitted fact and in case the petitioner is not granted the interim maintenance, then it is obvious that she will not be able to pursue her studies. There is sufficient material on record to prove that the petitioner is an aspirant for higher education in the foreign University.

It needs to be recorded that education is very much important in the life and one can wait for marriage, but not advisable to wait for the education. Some of the valuable remarks made by eminent persons regarding the importance of education are mentioned as under: -

“If you educate a man, you educate an individual, but if you educate a woman, you educate nation”.

(African Proverb)

“I measure the progress of any community by degree of progress women have achieved.”

(Dr. B.R. Ambedkar)

“Education is the most powerful weapon which you can use to change the world.”

(Nelson Mandela)

“Anyone who stops learning is old, whether at twenty or eighty. Anyone who keeps learning stays young.”

(Henry Ford)

29. In view of the facts and circumstances discussed hereinabove, inevitable conclusion is that the petitioner is suffering from an “injury” and on that count she is unable to maintain herself and consequently, entitled for interim maintenance under Clause (c),

Sub-section 1, Section 125 of the Code.

30. Consequently, CRM-M-31512-2016 is allowed and impugned order dated 13.05.2016, passed by learned Additional Sessions Judge, Panchkula, is set aside and order dated 26.05.2015, passed by learned Judicial Magistrate 1st Class, Panchkula, is restored.

31. However, at this stage, there is no sufficient material on record to enhance the amount of interim maintenance beyond awarded by learned Judicial Magistrate 1st Class, Panchkula, vide order dated 26.05.2015 and consequently, CRR-2232-2015 is dismissed.

32. No costs.

33. Respondent is directed to pay the arrears of interim maintenance to the petitioner in terms of 26.05.2015, passed by learned Judicial Magistrate 1st Class, Panchkula, within a period of four weeks from the date of receipt of certified copy of this order.

**[MAHABIR SINGH SINDHU]
JUDGE**

June 01, 2018
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Whether speaking/reasoned	Yes
Whether reportable?	Yes