

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

(1) CRM-M-22611 of 2017.
Decided on:- April 09, 2019.

Gurmit Singh and anotherPetitioners.

Versus

Harbans Singh and othersRespondents.

(2) CRM-M-37732 of 2017.

Amrik Singh.Petitioner.

Versus

Harbans Singh and othersRespondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Jagvinder Singh Santwal, Advocate
for the petitioners in both petitions.

Mr. M.S. Virk, Advocate
for respondents No.1 and 2 in both petitions.

HARI PAL VERMA, J.

This order shall dispose of the aforementioned two petitions filed by the petitioners under Section 482 Cr.P.C. as the same have been filed against the common judgment dated 30.05.2014 passed by learned Nyaydhikari, Gram Nyayalaya, Rania, District Sirsa, whereby the petition under Section 125 Cr.P.C. filed by respondents No.1 and 2 was allowed and respondents No.1 and 2 were granted maintenance @ Rs.4,000/- per month (i.e. Rs.2,000/- each) from the date of the application.

Challenge has been laid by petitioners in *CRM-M-22611 of 2017* titled as *Gurmit Singh and another Versus Harbans Singh and others* to the judgment dated 15.02.2017 passed by learned Additional Sessions Judge, Sirsa, whereby the appeal filed by them against the aforesaid judgment dated 30.05.2014 passed by learned Nyaydhikari, Gram Nyayalaya, Rania, District Sirsa, was dismissed.

Similarly, the petitioner in *CRM-M-37732 of 2017* titled as *Amrik Singh Versus Harbans Singh and others* has also challenged the judgment dated 15.02.2017 passed by learned Additional Sessions Judge, Sirsa, whereby the revision filed by him against the aforesaid judgment dated 30.05.2014 passed by learned Nyaydhikari, Gram Nyayalaya, Rania, District Sirsa, was dismissed.

However, for convenience and clarity, the detailed order is being passed in *CRM-M-22611 of 2017* titled as *Gurmit Singh and another Versus Harbans Singh and others*.

Briefly stated, respondents No.1 and 2, had filed a petition under Section 125 Cr.P.C. to claim maintenance, as the petitioners, who are their sons, started neglecting them. The respondents No.1 and 2 are aged parents without any source of income, whereas the petitioners are able bodied persons having sufficient source of income.

The petitioners had denied the averments made by respondents No.1 and 2 in the petition under Section 125 Cr.PC and pleaded that they are not in a position to pay maintenance.

Vide impugned judgment dated 30.05.2014, learned Nyaydhikari, Gram Nyayalaya, Rania allowed the petition filed by

respondents No.1 and 2 under Section 125 Cr.P.C. and awarded maintenance to them to the tune of Rs.4,000/- per month (i.e. Rs.2,000/- each) from the date of the application. The petitioners were directed to deposit the amount of maintenance by 10th of each month in the savings bank account of respondents No.1 and 2 without any default.

Aggrieved against the aforesaid judgment dated 30.05.2014 passed by learned Nyaydhikari, Gram Nyayalaya, Rania, petitioners in *CRM-M-22611 of 2017* titled as *Gurmit Singh and another Versus Harbans Singh and others* filed an appeal before the Court of Session, Sirsa, whereas the petitioner in *CRM-M-37732 of 2017* titled as *Amrik Singh Versus Harbans Singh and others* filed a revision petition against the aforesaid judgment dated 30.05.2014 passed by learned Nyaydhikari, Gram Nyayalaya, Rania before the Court of Session. However, the appeal as well as the revision petition filed by the petitioners were dismissed by learned Additional Sessions Judge, Sirsa vide two different judgments dated 15.02.2017.

It is in these circumstances, the petitioners in both the petitions have approached this Court.

Learned counsel for the petitioners has argued that respondents No.1 and 2 have alleged in the petition under Section 125 Cr.P.C. that they have no source of income to maintain themselves and the petitioners along with their two other brothers i.e. respondents No.3 and 4 started neglecting them. On many occasions, respondents No.1 and 2 asked for maintenance, but the petitioners refused to pay maintenance. However, respondent No.1 did not get his statement recorded in the Court as per the requirement of provisions of Section 126 Cr.P.C., but he merely tendered his affidavit in his evidence,

which is against the provisions of Section 126 Cr.P.C. In support of his contention, he has relied upon the law laid down by this Court in ***Gurtej Singh Versus Balwinder Kaur 2013(5) RCR (Criminal) 814.***

On the other hand, learned counsel for respondents No.1 and 2 has argued that respondents No.1 and 2 are the parents of petitioners and they are about 80 years of age and fully dependent upon the petitioners.

I have heard learned counsel for the parties.

There is no dispute that the petitioners are sons of respondents No.1 and 2, who are quite old about 80 years of age. The impugned judgment dated 30.05.2014 passed by learned Nyaydhikari, Gram Nyayalaya, Rania shows that in order to prove their case, respondent No.1 Harbans Singh examined himself as PW1, whereas the petitioners had not examined any witness to controvert the stand of respondents No.1 and 2. Accordingly, vide impugned judgment dated 30.05.2014, learned Nyaydhikari, Gram Nyayalaya, Rania allowed the petition filed by respondents No.1 and 2. The relevant paragraph No.7 of the said judgment reads as under:

“7. After consideration of the said testimonies of the witnesses and also the documentary evidence on record it can be said that there is no dispute regarding relationship of the petitioners and respondents. The argument of the learned counsel for the respondent that a compromise was arrived between the parties and in this regard he produced on record Mark D1 and D2. But these documents have not been proved on record by any of the witness, which clearly shows that the stand of the respondents is nothing but a futile exercise from escaping the levy of maintenance.

Further respondents have not produced on record regarding any income of the petitioners. On the other hand the petitioners tendered copy of Jamabandi Ex.P1 on record which clearly reflects that respondents are having landed property in their names.

The respondents have also failed to show that they are in any way not capable of maintaining their parents i.e. the petitioners. The Court also finds it appropriate to highlight the legislative intention behind the provision of Section 125 Cr.P.C., that it is a legal remedy for preventing vagrancy and destitution of such persons who are not capable of maintaining themselves. In our society, it is minor children who are supposed to look for maintenance from the parents. It is not the parents, that too such elderly, who be compelled to knock the door of the Court of law to seek maintenance from their able bodied, major sons having sufficient means to respect the needs of their elderly parents. Such an unfortunate eventuality would lead to disturb the social fabric. In the present case, the petitioners are extremely old aged persons who had been running from pillar to the post of securing their daily needs of food and medicines. Legal provision u/s 125 Cr.P.C. has the objective of social justice and also of remove distress from the lives of old parents. By analysing the present set of facts in the backdrop of this provision, the Court is of the considered opinion that the respondents are healthy and able bodied person, having sufficient means to maintain their elderly parents, who are at the extreme age of their life. As such, finding force in the present petition, the Court hereby orders that the petitioners are entitled to receive maintenance to the tune of Rs.4000/- per month (i.e. Rs.2000/- each petitioner) from the each respondents from the date of the application. With above said directions, the present petition is hereby allowed. Petitioners are directed to furnish saving bank account number

to the respondents within reasonable time and the respondents are directed to deposit the amount of maintenance by 10th of each month in the account of petitioners, without any default. This amount shall be payable from the date of petition. However, any amount, already paid by the respondents shall be set off against the future maintenance. File be consigned to the record room after due compliance.”

There is no dispute with the law laid down by this Court in ***Gurtej Singh’s case (supra)*** that the evidence of a formal character only can be received by way of an affidavit during the course of inquiry, trial and other proceeding and the statements of parties to a proceeding under Section 125 Cr.PC cannot be termed of a formal character, but in the case in hand, no such material has been brought on record by the petitioners so as to suggest that respondents No.1 and 2 have enough resources to meet their day to day expenses. Rather, it is the pious duty of the petitioners to maintain their old parents.

Therefore, this Court does not find any illegality in the impugned judgments passed by the Courts below.

Accordingly, the present petitions, being devoid of any merits, are hereby dismissed.

Photocopy of this order be placed on the file of other connected case.

April 09, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No