

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22708-2019 (O&M)

Date of Decision : 11.07.2019

Mohammad Rafi

..... Petitioner

Versus

Ruhan

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Sherry K.Singla, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J. (Oral)

Earlier, the petitioner filed CRM-M-17492-2017 against the order dated 19.11.2015, passed by the learned Sub Divisional Judicial Magistrate, Malerkotla and the said petition was dismissed as withdrawn.

The instant petition has been filed by the petitioner challenging the order dated 21.01.2019 (Annexure P-4), passed by the learned Addl. Sessions Judge, Sangrur as well as the order dated 10.08.2017 (Annexure P-4), passed by the Sub Divisional Judicial Magistrate, Malerkotla vide which the minor son of the petitioner was granted maintenance.

The facts, as necessary for disposal of the instant petition, are that respondent-Ruhan, minor son of the petitioner has earlier filed an application for grant of maintenance through his mother under the provisions of Section 125 Cr.P.C. However, the said application was withdrawn by the mother as she was given the custody of the minor. The matter was put up before the Lok Adalat which passed the order dated

19.01.2013 as under:-

“File taken up today in the Lok Adalat. Applicant suffered a statement on 16.01.2013 that her entire claim has been satisfied. Nothing is due towards the respondent. She has taken the custody of her son Ruhan. Therefore, the present application be dismissed as withdrawn.”

Heard. In view of the statement made by the applicant on 16.01.2013, which is countersigned by her counsel, the present application is dismissed as withdrawn. File be consigned to the record room after due compilation.”

However, after withdrawal of the earlier application, fresh application was filed by Ruhan, minor son of the petitioner, through his next friend-cum-maternal grand mother Smt. Gafooran (Annexure P-13) praying for maintenance. In the said petition, the maintenance was granted to the minor at the rate of Rs.3,000/- per month from the date of filing the said application vide order dated 10.08.2017, passed by the Sub Divisional Judicial Magistrate, Malerkotla. The said order was challenged by filing a revision petition and the same was dismissed vide order dated 21.01.2019 (Annexure P-4), passed by the learned Addl. Sessions Judge, Sangrur and the order of maintenance was upheld.

I have heard learned counsel for the petitioner and have gone through the record.

Learned counsel for the petitioner has submitted that earlier the petition was dismissed as withdrawn by the previous guardian-cum-next friend and fresh application for grant of maintenance is not maintainable.

This Court considered the said contention but it carries no weight. Earlier the petitioner filed CRM-M-17492-2017 against the order dated 19.11.2015 vide which the learned Magistrate declined to dismiss the

application.

The arguments addressed today with regard to the maintainability to the application, are not tenable. Apart from it, the statement suffered by the mother of the minor was adverse to the interest of the minor and he is not bound by her statement. It is undisputed fact that the minor has been neglected and not provided maintenance by his father. The mother has no source of income. Thus, the minor has the right to file fresh application for maintenance through her next friend. It may be through grand maternal mother or any other person.

So far as the quantum of maintenance is concerned. To the mind of this court, the maintenance awarded by the court below is appropriate to the circumstances of the case. As such, the impugned orders dated 21.01.2019, passed by the learned Addl. Sessions Judge, Sangrur as well as the order dated 10.08.2017 (Annexure P-4), passed by the Sub Divisional Judicial Magistrate, Malerkotla do not suffer from any illegality, irregularity and infirmity and the same do not call for any interference and are hereby affirmed.

Accordingly, the instant petition stands dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

11.07.2019
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No