

1. This petition questions the order dated 30th October, 2017 passed below Exhibit 68. An application preferred by the father pursuant to the provisions of Sub-Section (1)(c) of Section 125 of Code of Criminal Procedure seeking annulment of maintenance as the beneficiary daughter, i.e. Bhagyashri has attained majority.

2. The said application came to be rejected vide impugned order dated 30th October, 2017 passed below Exhibit 68. As such, this petition.

3. The learned Senior Counsel for the petitioner would urge that the statutory provisions, which are relied for awarding payment of maintenance i.e. Section 125 Cr.P.C. itself provides for an embargo on continuing the benefit of maintenance after the beneficiary child has attained majority. He would draw support from the language employed in Sub-Section (1)(c) of Section 125 Cr.P.C. to mean that if the beneficiary has attained majority, the order of payment of maintenance needs to be annulled while relying on the judgments of the Hon'ble Supreme Court and this Court :

“1. Jagdish Jagtawat Vs. Manju Lata and Ors., reported in 2002(5) Criminal CC 565, (SLP Cri, 905 of 2001 decided on 23rd April, 2002)

2. Amarendra Kumar Paul Vs. Maya Paul and Ors., reported in (2009) 8 Supreme Court Cases, 359

3. Nitaben Dineshkumar Oza Vs. Dineshkumar Ishwarlal Oza & Anr., reported in 2016 SCC Online Guj. 6408.

4. Jagir Singh Vs. Ranbir Singh and Another, reported in A.I.R. 1979 Supreme Court, 381.”

4. Learned Senior Counsel would try to substantiate his contentions. The submissions are that the Courts below has delivered a verdict continuing payment of maintenance in favour of the daughter under statutory provisions and that being so, it is a fit case wherein in an extra ordinary jurisdiction, this Court should exercise by quashing the order impugned.

5. While countering the aforesaid submissions, the learned counsel for the respondent beneficiary/daughter would urge that the language of Sub-Section (1)(c) of Section 125 is quite clear. Even if, there is an embargo created under Sub-Section (1)(c) of Section 125 on the right of daughter to claim and continuing receiving maintenance till age of majority, the said provision is already read down to mean that the liability to pay maintenance to a daughter is till her marriage. He has placed reliance on the judgment of this Court in the matter of **Agnes Lilly Irudaya Vs. Irudaya Kani Arasan & Anr.** delivered in Writ Petition No. 2872 of 2017, pronounced on 6th April, 2018. As such, he sought dismissal of the petition.

6. An earlier order under 125 Cr.PC proceeding directing the petitioner to pay interim maintenance to the child is not set aside by any of the Court. As a consequence of above, I am informed that the petitioner till date, has paid Rs.8,60,000/- towards interim maintenance to Bhagyashri, the alleged daughter.

7. It is then to be noted that the Court below while dealing with the prayer for modification and annulment of maintenance has taken shelter of Section 20, Sub-Section 3 of the Hindu Adoptions and Maintenance Act, 1956, so as to carve the legal responsibility of Petitioner to pay maintenance till the daughter gets married.

8. The aforesaid proposition of law cannot be disputed and is rightly so not disputed, however, what is claimed by learned Senior Counsel is, if a remedial measures under Section 127 Cr.PC. Pursuant to embargo created under Sub-Section (1)(c) of Section 125 Cr.PC. is provided, the Court must order stoppage of maintenance.

9. Upon perusal of the issue decided by this Court in the matter of **Agnes** (supra), the law on the issue is very well discussed in detail. Even if, there is a statutory embargo as created under Sub-Section (1)(c) of Section 125 Cr.Pc. that by itself cannot mean to say a major daughter daughter should not be made beneficiary of receiving payment of maintenance till she gets married and she herself has an independent source of income or become fully dependent on the income of some other person, on whom she is depending.

10. For the aforesaid reasons, in my opinion, no interference is called for in extra ordinary jurisdiction.

11. The petition as such fails. Dismissed.

(**NITIN W. SAMBRE, J.)**

Note : Order is corrected as per Speaking to Minutes of the order dtd. 14th February, 2020.