

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1037 OF 2018

Mr. Prakash s/o Baburao Kajale,
Age : 47 Years, Occu.: Advocate,
R/o. Sai Shraddha Nagar,
Behind 132, K.V. Sub Station,
Sangamner, TQ. Sangamner,
District : Ahmednagar.

... Petitioner.

VERSUS

Tejaswita D/o. Prakash Kajale,
Age : 26 years, Occu. Service,
C/o. Shobha Prakash Kajale,
R/o. Sai Shraddha Nagar,
Behind 132, K.V. Sub Station,
Sangamner, Tq. Sangamner,
District, Ahmednagar.

... Respondent.

...

Advocate for Petitioner : Mr. Nagargoje Ankush N.
Advocate for Respondent : Mr. Bajaj Anil S.

...

CORAM : KISHORE C. SANT, J.
DATE : 3rd MAY 2023.

Oral Judgment :

Heard.

1. Rule.
2. Rule made returnable forthwith by consent of the parties.
3. A very short point that is involved in the petition is that whether the daughter is entitled to receive the maintenance under Section 125 of the Code of Criminal Procedure even after attaining the majority?
4. In this case, the facts are that respondent no.1/daughter had filed an application seeking maintenance under Section 125 of Cr.P.C. against the petitioner/father. The learned Judicial Magistrate First Class, Sangamner in Miscellaneous Application No.270/2004 was pleased to dismiss the application for the reason that the mother was in service and the daughter is residing with mother and other grounds. The said order was challenged by respondents by filing Criminal Revision No.4/2008 in the Court of learned Additional Sessions Judge, Sangamner. The learned Sessions Judge by impugned judgment dated 16.09.2017 directed the petitioner to pay maintenance @ Rs.500/- to

the respondent. This order is under challenge in this petition.

5. Now the question is only that in view of attaining majority pending this application, whether she would be entitled to receive maintenance. Her date of birth is 27.04.1991 and she attained the majority on 27.04.2009. The petitioner thus makes a statement that he has no dispute about the entitlement of respondent no.1 to receive maintenance till the period she was minor. In support, he relied upon the judgment of the Full Bench of the Hon'ble Apex Court in the case of **Abhilasha Vs. Parkash and Others**, reported in 2021(5) Mh.L.J.(Cri.) (S.C.) 315. Wherein the Hon'ble Apex Court by considering the judgment in the case of **Jagdish Jugtawat Vs. Manju Lata and Others**, reported in (2002) 5 SCC 422, has held that though the unmarried hindu daughter can claim maintenance from her father till she is married in view of Section 20(3) of the Act, 1956 provided she pleads and proves that she is unable to maintain herself, for enforcement of which right her application/suit has to be under [Section 20](#) of Act, 1956. However for the same purpose, she has to file proceeding under the said Act. The Court had therefore granted liberty to file proceeding

under Section 20(3) of the Act. So far as proceeding under Section 125 is concerned, the same was held to be not available to the daughter by considering object of Section 125 of Cr.PC.

6. The learned Advocate for the respondents fairly accepts this position.

7. In view of the above, the petition is disposed off by restricting the operation of the impugned order till the 27.04.2009 that is date of which respondent no.1 attained majority. It is made clear that if the petitioner has paid any amount even after that the same shall not be recovered.

8. Rule is discharged.

[KISHORE C. SANT, J.]

Najeeb.