



Crl.R.C.(MD)No.367 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.367 of 2020
and
Crl.M.P(MD).No.3150 of 2020

Senthilkumar ... Petitioner/Respondent
Vs.

1. Amutha

2. Sindhupriya

3. Jeyabarathi ... Respondents/Petitioners

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order dated 30.08.2019 made in M.C.No.15 of 2018 on the file of the Family Court, Karur and set aside the same.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents : Mr.S.Gokulraj



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ORDER

The husband of the first respondent filed this revision, challenging the maintenance granted in favour of his wife and two female children.

2. According to the first respondent, the marriage between the petitioner and herself was solemnised on 03.02.1993 and the petitioner is working as a Physical Education Teacher in Government School. Due to some discord, the first respondent was living separately along with her daughters. Thereafter, they filed the petition in M.C.No.15 of 2018 on behalf of the major daughter and also claiming maintenance of Rs.10,000/- for each petitioner totally Rs.30,000 per month. The petitioner filed counter denying some allegations made in the petition and he admitted the relationship and he raised specific plea that the second and third petitioners attained majority and hence they are not entitled for maintenance under Section 125 Cr.P.C.

3.The first respondent/wife examined herself as PW1 and also respondent/ daughter were also examined PW2 and PW3. To support their claim, she marked Ex.P1 to Ex.P6. The petitioner/husband examined himself as RW1 and marked Ex.R1 to Ex.R.8.



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4. The learned trial Judge, considering the above documents and oral evidence, granted maintenance to all the petitioners. The learned trial Judge specifically addressed the issue of maintainability of the claim made by the unmarried daughter. The learned trial Judge also considered the economic condition of the petitioner also and granted maintenance to the unmarried major daughter also. Challenging the same, the learned counsel for the petitioner filed this revision.

5. The learned counsel for the petitioner submitted that the unmarried daughters, who have been already attained majority, are not entitled to claim maintenance under Section 125 Cr.P.C. He relied the provision contained in Section 125(b) Cr.P.C. But he fairly submitted that the Hon'ble Supreme Court in the case of *Abhilasha v. Parkash*, reported in *(2021) 13 SCC 99* has held that even though claim was made under Section 125 Cr.P.C., the family Court has power to grant maintenance to the unmarried daughter till her marriage by invoking the section 20 of the Hindu adoption and Maintenance Act 1956. Therefore the grant of maintenance against the unmarried daughter in this case by



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the family Court is in accordance with law. But he prayed to allow this revision in respect of one of the daughter namely, Sindhupriya/second respondent herein who got married in February 2022 pending this revision.

6. The respondent counsel admitted above submission of the petitioner counsel that the daughter got married and also reiterated the law laid down by the Hon'ble Supreme Court in the above stated Judgment.

7. This Court considered rival submission and perused the impugned order and the precedent relied by the parties.

8. Now the question in this case is whether the unmarried daughter is entitled to maintenance in the petition filed under Section 125 Cr.P.C., before the family Court, with aid of Section 20 of the Hindu adoption and maintenance Act, 1956?.



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9. The said question is no longer *res integra* and the same was answered by the Hon'ble Supreme Court by three Judges bench in favour of the unmarried daughter in the following cases:

9.1. In the case of ***Jagdish Jugtawat v. Manju Lata***, reported in **(2002) 5 SCC 422** at page 422

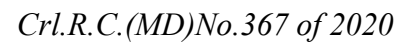
2. The petitioner is the father of Kumari Rakhi, Respondent 3 herein, who is a minor unmarried girl. Considering the application filed under Section 125 of the Criminal Procedure Code by Respondent 1, wife of the petitioner and mother of Respondent 3, claiming maintenance for herself and her two children, the Family Court by order dated 22-7-2000 granted maintenance @ Rs 500 per month to each of the applicants. The petitioner herein filed a revision petition before the High Court assailing the order of the Family Court on the ground, inter alia, that Respondent 3 was entitled to maintenance only till she attains majority and not thereafter. Considering the point the learned Single Judge of the High Court accepted the legal position that under Section 125 CrPC, a minor daughter is entitled to maintenance from her parents only till she attains majority, but declined to interfere with the order passed by the



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Family Court taking the cue from Section 20(3) of the Hindu Adoptions and Maintenance Act under which the right of maintenance is given to a minor daughter till her marriage. The learned Single Judge was persuaded to maintain the order of the Family Court with a view to avoid multiplicity of proceedings. The relevant portion of the judgment of the High Court is quoted here:

“Thus, in view of the above, though it cannot be said that the order impugned runs counter to the law laid down by the Hon'ble Supreme Court, the provisions of Section 125 CrPC are applicable irrespective of the personal law and it does not make any distinction whether the daughter claiming maintenance is a Hindu or a Muslim. However, taking an overall view of the matter, I, with all respect to the Hon'ble Court, am of the candid view that the provisions require literal interpretation and a daughter would cease to have the benefit of the provisions under Section 125 CrPC on attaining majority, though she would



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* [(1997) 6 SCC 233 : 1997 SCC (Cri) 924 : AIR 1997 SC 3280] relating to the claim of a Muslim divorced woman for maintenance from her husband for herself and her minor children. This Court while



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accepting the position that Section 125 CrPC 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 to 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 CrPC and Section 20(3) of the Hindu Adoptions and Maintenance Act. For the reasons aforestated 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.



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9.2. In the case of ***Abhilasha v. Parkash***, reported in
(2021) 13 SCC 99 at page 118

32.The provision of Section 20 of the 1956 Act casts clear statutory obligation on a Hindu to maintain his unmarried daughter who is unable to maintain herself. The right of unmarried daughter under Section 20 to claim maintenance from her father when she is unable to maintain herself is absolute and the right given to unmarried daughter under Section 20 is rightly granted under Personal law, which can very well be enforced by her against her father. The judgment of this Court in Jagdish Jugtawat [Jagdish Jugtawat v. Manju Lata, (2002) 5 SCC 422 : 2002 SCC (Cri) 1147] laid down that Section 20(3) of the 1956 Act recognised the right of a minor girl to claim maintenance after she attains majority till her marriage from her father. Unmarried daughter is clearly entitled for maintenance from her father till she is married even though she has become major, which is a statutory right



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recognised by Section 20(3) and can be enforced by unmarried daughter in accordance with law.

10. In view of the above law, and the fair submission made by the learned counsel for the petitioner admitting the above position of law, this Court concurs with the finding of the learned trial judge that unmarried daughter also is entitled to claim maintenance.

11. It is admitted by the both counsel on instructions that during the pendency of the revision, one of the daughter namely, Sindhupriya/second respondent herein got married in February 2022. Hence, considering the subsequent development, this Court is inclined to modify the order in so far as the second respondent alone and petitioner agreed to pay maintenance from the date of the petition to the date of her marriage.

12. Accordingly, this Criminal Revision Petition is partly Allowed, modifying in the following terms:



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- (i) the maintenance order granted by the Court below insofar as the first respondent/wife is confirmed;
- (ii) the maintenance order granted by the trial Court to the third respondent is also confirmed and the petitioner is directed to pay maintenance till her marriage;
- (iii) in so far as the second respondent is concerned, the petitioner is directed to deposit the arrears of amount due to the second respondent from the date of the petition till her marriage, ie., upto February 2022 excluding the amount already paid;

and Consequently, connected miscellaneous petition is closed.

19.12.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PJL/sbn



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To
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1. The Learned Judge,
Family Court, Karur.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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