



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-592-2024 (O&M)
Reserved on: 02.12.2024
Pronounced on: 10.12.2024

Meenu Saini

... Petitioner

Vs.

Kitaboo

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashutosh Kaushik, Advocate
for the petitioner.

Mr. Ashwani Gaur, Advocate and
Ms. Shivangi Sharma, Advocate
for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the order dated 11.03.2024 passed by learned Additional Principal Judge, Family Court, Sonapat, vide which the respondent, mother-in-law of the petitioner, was granted interim maintenance of Rs.10,000/- per month, payable by the petitioner.
2. Briefly, the facts are that the petitioner was married to Praveen Kumar Saini, son of the respondent, on 24.05.2001. Praveen Kumar Saini



worked as a Constable in the Rail Coach Factory, Kapurthala. Unfortunately, he passed away on 25.03.2002, while in service. The petitioner approached the concerned department seeking compassionate appointment. Accordingly, the petitioner was appointed as Junior Clerk vide letter dated 28.01.2005 (Annexure P-2) on compassionate grounds.

3. Subsequently, the petitioner left the matrimonial home. On 07.01.2022, the respondent moved an application seeking maintenance under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [*now Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] from the petitioner and the respondent was granted Rs.10,000/- per month as interim maintenance vide impugned order dated 11.03.2024.

4. Learned counsel for the petitioner, *inter alia*, contends that the parents of the deceased husband of the petitioner were not dependent on him. In fact, the respondent has five children of her own. Once the petitioner got the compassionate appointment, she left the matrimonial home along with her son and she is raising him as a single mother. She has never sought any financial aid from her in-laws and has even occasionally helped them with money. The husband of the petitioner died on 25.03.2002 and the petitioner was appointed as Junior Clerk on 28.01.2005. However, the respondent only filed an application seeking maintenance in the year 2022, after a delay of about 20 years. Moreover, mother-in-law cannot be considered as a dependent in terms of Section 125 of



Cr.P.C. (*now Section 144 of BNSS*), upon a daughter-in-law. Learned Court below has erred in referring to the Hindu Succession Act, 1956 and considering the respondent to be a dependent on the deceased husband of the petitioner, merely because she is a Class-I heir. Lastly, the petitioner reserves the right to challenge the petition on grounds of maintainability at any stage. Learned counsel places reliance on the judgment rendered by the Hon'ble Supreme Court in *Nitu Vs. Sheela Rani and others, 2016 AIR SC 4552*.

5. *Per contra*, learned counsel for the respondent contends that the petitioner was only appointed as Junior Clerk because her husband, son of respondent, died while in service. The underlying objective of compassionate appointment is to assist the family in navigating the financial crisis caused by a sudden death. As such, once she accepted the compassionate appointment, the petitioner must be deemed to have stepped into the shoes of the deceased son of the respondent and is liable to maintain his dependent(s). The respondent is a sexagenarian and is in an infirm condition. Since the passing of her husband, the respondent has unable to maintain herself. She had three children i.e. the deceased husband of the petitioner, a married daughter and another son, who is a rickshaw puller, is unable to provide basic necessities to the respondent. Moreover, at the time of her appointment, the petitioner had specifically undertaken to look after the dependents of the deceased vide affidavit (Annexure P-10). Further, the question of maintainability already stands decided vide order



dated 14.09.2023, which was never challenged by the petitioner. Learned counsel relied upon the judgment rendered by the Bombay High Court in ***Smt. Saroj Mukkawar Vs. Smt. Chandrakalabai Polshetwar and another, 2009 AIR Bom 679.***

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the respondent is mother-in-law of the petitioner. The husband of the petitioner worked at the Rail Coach Factory, Kapurthala (RCF) and passed away on 25.03.2002, while in service. Subsequently, the petitioner was granted compassionate appointment as Junior Clerk vide letter dated 28.01.2005 (Annexure P-2). At the time of the said appointment, the petitioner had undertaken to look after the dependents and family members of her deceased-husband, as reflected by affidavit dated 12.11.2003 (Annexure P-10). The relevant part of the affidavit reads as follows:

“5. That the deponent after appointment on the Railway will look after the dependents and the family of deceased husband late Parveen Kuamr Saini.

6. That in case the deponent fails to look after the dependents and the family of the deceased, her services shall be liable to be terminated by the competent authority of Railway.”

7. In this backdrop, it would be prudent to study the relevant part of Section 125 of Cr.P.C. (*now Section 144 of BNSS*), which reads as follows: -

“Section 125. Order for maintenance of wives, children and parents.

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(1) If any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,”

8. It is clear that Section 125 of Cr.P.C. (*now Section 144 of BNSS*) does not place any liability on the daughter-in-law to maintain her parents-in-law or vice versa. In fact, in spite of lack of a dedicated provision making parents-in-law liable to maintain daughter-in-law, a two Judge Bench of the Hon'ble Supreme Court in ***Manmohan Gopal Vs. The State of Chhatisgarh and another, 2023(14) Scale 684*** held that the petitioner/father-in-law along with the husband were liable to clear the arrears of maintenance and directed six of the shops co-owned by them to be sold. Reliance can also be placed on the judgment rendered by a Division Bench of Allahabad High Court in ***Hari Lal Vs. Balwantia, 1998(4) R.C.R.(Civil) 23***. Therefore, when the interest of justice demands it, exceptions have been carved out to serve the interest of justice.

9. However, the petitioner was employed by the RCF on compassionate grounds. The idea behind granting compassionate appointment is



to assist the family in dealing with the financial crisis that follows death of a bread-earner. The husband of the respondent passed away a little while before filing of the present petition and since his demise, the respondent, a sexagenarian, has no one to maintain her. The respondent has three children- her son (Praveen Kumar Saini) has passed away, her daughter is already married and her other son is a rickshaw puller, who has to take care of his severally sick child. As such, neither of her surviving children is able to take care of her basic necessities.

10. The object and purpose behind granting maintenance under Section 125 of Cr.P.C. (*now Section 144 of BNSS*) is to avoid destitution or vagrancy. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon of harassment. The Courts are required to conduct the maintenance proceedings, while being alive to the legislative intent behind the provision under Section 125 of Cr.P.C. (*now Section 144 of BNSS*) in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. The provisions of Section 125 of Cr.P.C. (*now Section 144 of BNSS*) were enacted as a measure to further social justice and protect dependent women, children and parents, which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. A three-Judge Bench of the Hon'ble Supreme Court in ***Vimala (K.) Vs. Veeraswamy (K.), (1991) 2 SCC 375***, speaking through Justice



Fatima Beevi, opined as follows:

“3. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife.”

11. Further, a two-Judge Bench of the Hon’ble Supreme Court in ***Kirtikant D. Vadodaria Vs. State of Gujarat, (1996) 4 SCC 479***, speaking through Justice Faizan Uddin, opined as follows:

“15... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”

12. Further, the affidavit rendered by the petitioner specifically states that she will be liable to take care of the “*dependents and family members*” of her deceased husband. While a perusal of the record reflects that the respondent is not a ‘dependent’ according to the records of the Ministry of Railways, as reflected by letter dated 10.07.2023 (Annexure P-11) and admittedly, she is mother of the deceased. Since the petitioner was given her current job on compassionate grounds, she is liable to take care of the respondent, as she has stepped into the shoes of her deceased husband. While this Court is conscious of



the plight of a single mother, the petitioner cannot be allowed to merely taken up the benefits of a compassionate appointment and avoid the responsibilities that come with it. The record reflects that the petitioner is earning a handsome amount of Rs.80,000/- per month, as such, the petitioner can comfortably pay Rs.10,000/- per month to the respondent as maintenance. Reliance in this regard can be placed on the judgment of the Calcutta High Court in ***Durgabala Mandal Vs. State of West Bengal and others, 2022 SCC OnLine Cal 169*** and the Bombay High Court in ***Smt. Saroj Mukkawar***'s case (*supra*).

13. The overarching aim of justice is to serve what is deserved and accountability and fairness are identifying features of the same. However, the said purpose would be defeated, if justice is viewed in its absolute mechanical form, devoid of context and nuance. While justice in itself is a dynamic concept, directly influenced by the morality of an ever-evolving society, it can be said with certainty that absolute impartiality and lack of compassion often claims fairness as a casualty. In a welfare State, it is of the utmost importance that the vulnerability of the disadvantaged is recognized and the application of justice is viewed from a renewed perspective. In the current socio-economic scenario, the plight of the have-nots can only be truly addressed when compassion drives justice as it is only through compassion that justice can be substantially realized.

14. In view of the peculiar facts and circumstance of the case and in the interest of equity, present petition is dismissed.

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15. All the pending miscellaneous application(s), if any, shall stand disposed of.

10.12.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No