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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-577-2024 (O&M)
Date of decision: 01.05.2024

Atma Singh and another

... Petitioners

Vs.

Joginder Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Impinder Singh Dhaliwal, Advocate
for the petitioners.

HARPREET SINGH BRAR, J. (ORAL)

CRM-18980-2024

1. Present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for placing on record the application under Section 125 Cr.P.C. as Annexure P-4 and exemption from filing certified/true typed copy thereof.
2. In view of the averments made in the application, same is allowed and application under Section 125 Cr.P.C. is taken on record as Annexure P-4. Exemption sought is granted.

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3. The present revision petition has been preferred against the

impugned order dated 27.02.2024 passed by the learned Principal Judge, Family Court, Sri Muktsar Sahib, Camp Court, Malout, vide which petition filed under Section 125 Cr.P.C. was allowed and maintenance of total Rs.15,000/- per month was awarded to be paid to the respondent i.e. Rs.7,500/- per month by the petitioners each.

4. Brief facts of the case are that the marriage between father of the petitioners i.e. proforma respondent No.2 and respondent No.1 was solemnized 32 years ago by way of Anand Karaj ceremonies. Out of this wedlock, no child was born. Respondent No.2 was earlier married with one Surjit Kaur and from that wedlock, the petitioners were born. Said Surjit Kaur had died and thereafter, respondent No.2 performed second marriage with respondent No.1, thus, the petitioners are step sons of respondent No.1. Respondent No.1 filed a petition under Section 125 Cr.P.C. seeking maintenance of Rs.20,000/- per month from respondent No.2 and the petitioners. They filed separate replies and contested the claim made by respondent No.1. The learned Family Court, vide order dated 27.02.2024, granted maintenance allowance of Rs.15,000/- per month in favour of respondent No.1 i.e. Rs.7,500/- per month by the petitioners each. Aggrieved by the same, the petitioners have approached this Court by filing the present petition.

5. Learned counsel for the petitioners, *inter alia*, contends that respondent No.1 was earlier married with one Jasvir Singh, who is still alive, therefore, she has no concern with father of the petitioners i.e. proforma

respondent No.2. The said fact is corroborated by the affidavit submitted by respondent No.1 in the application dated 31.05.2022 (Annexure P-3) moved by the petitioners before DSP, Giddarbaha. Further, PW2 Mukhtiar Singh, who is Numberdar of Village Golewala and nephew of respondent No.1, stated before learned Family Court that she was married to Jasvir Singh and never took divorce from him. Further, Jasvir Singh himself gave a statement before the police authorities in the complaint filed by petitioner No.2, wherein the factum of his marriage with respondent No.1 was admitted. It is further contended that proforma respondent No.2 was married with Surjit Kaur and out of that wedlock, the petitioners were born, who are presently 50 years and 60 years old, respectively. Respondent No.1 has obtained a forged Aadhar Card on the basis of which, the said application under Section 125 Cr.P.C. was filed by her. The date of birth mentioned in the said Aadhar Card is 01.01.1938, which makes her 86 years old, but in the application under Section 125 Cr.P.C. filed by her, it is stated that she is 68 years of age. Most importantly, respondent No.1 has no documentary evidence to show that respondent No.1 was ever married to proforma respondent No.2. The aforesaid fact can be confirmed from the details furnished by respondent No.2, while opening the bank account with SBI on 02.07.2019, wherein she gave her father's name but failed to mention her husband's name. He further submits that all the aforesaid has been done by respondent No.1 in order to grab the property of proforma respondent No.2, which has already been transferred by him in the name of the petitioners. Therefore, learned Family

Court has wrongly concluded that the petitioners are liable to maintain respondent No.1 since there is no relationship between them. It is well settled law that second wife, whose marriage is void on account of survival of first marriage, would not be a legally wedded wife, therefore, could not be entitled to maintenance. It is lastly contended that the petitioners are stepsons of respondent No.1 and are not liable to maintain her.

6. Having heard learned counsel for the petitioners and after perusing the record with his able assistance, it transpires from the statement of PW2 Amarpal Singh, Member Panchayat of Village Killianwali that marriage of respondent No.1 was solemnized with proforma respondent No.2 and they cohabited together as husband and wife in his village. The said fact has been corroborated by the statements of PW3 Gurmeet Singh, PW4 Sukhraj Singh and PW5 Jagsir Singh, who are nephews of respondent No.1. Further, the documents exhibited as Ex.A3 & Ex.A4 being the resolutions given by Panchayat of the aforementioned village affirm the factum of the marriage between respondent No.1 and proforma respondent No.2. Further, it appears that respondent No.1 is about 80 years of age and the only child/daughter from her previous marriage is married and her financial status is unknown. It is important to note that proforma respondent No.2, who is alive, has already transferred his property in favour of the petitioners. Therefore, this Court finds no ground to interfere with the findings recorded by learned Court below.

7. The object and purpose behind granting maintenance is to

ensure that the dependent spouse/parent is not reduced to 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 to punish the other person. The Courts are required to conduct the maintenance proceedings, while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. The provisions of Section 125 Cr.P.C. 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.

8. 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.”

9. Another objective the legislature has sought to achieve by this provision is to provide maintenance *pendente lite* to the applicant spouse/parents during proceedings emerging out of matrimonial disputes so that she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and not suffer at the instance of the affluent spouse/child.

10. Further, a two-Judges Bench of the Hon'ble Supreme Court in

Kirtikant D. Vadodaria Vs. State of Gujarat, 1996 (3) RCR (Crl.) 147, held that a stepmother is entitled for maintenance from step-son, if she has no natural children; she is a widow or her husband and natural children, if any, are not capable to support her. The observations made in this judgment are as follows: -

“The point in controversy before us however is whether a 'stepmother' can claim maintenance from the step-son or not, having regard to the aims and objects of Section 125 of the Code. 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. Having regard to this social object, the provisions of Section 125 of the Code have to be given a liberal construction to fulfill and achieve this intention of the Legislature. Consequently, to achieve this objective, in our opinion, a childless step-mother may claim maintenance from her step-son, provided she is widow or her husband, if living, is also incapable of supporting and maintaining her. The obligation of the son to maintain his father, who is unable to maintain himself, is unquestionable, When she claims maintenance from her natural born children, she does so in her status as their 'mother'. such an interpretation would be in accord with the explanation attached to Section 20 of the Hindu Adoptions and maintenance Act, 1956 because to exclude altogether the personal Law applicable to the parties from consideration in matters of

maintenance under Section 125 of the Code may not be wholly justified. However, no intention of Legislature can be read in Section 125 of the Code that even though a mother has her real and natural born son or sons and a husband capable of maintaining her, she could still proceed against her step-son to claim maintenance. Since, in this case we are not concerned with, we express no opinion, on the question of liability, if any, of the step-son to maintain the step-mother, out of the inherited family estate by the step-son and leave that question to be decided in an appropriate case. Our discussion is confined to the obligations under Section 125 Cr.P.C. only.”

11. A perusal of the impugned order passed by the learned Family Court makes it evident that the Court below has duly considered the material placed before it for determining the quantum of maintenance. A careful and just balance has been drawn, keeping in view the spiralling inflation rates and high cost of living corresponding to the reasonable needs of respondent No.1. Learned counsel for the petitioners has not been able to indicate any perversity in the impugned order, which warrants interference by this Court. Accordingly, the present petition is dismissed being bereft of any merit.

12. Pending miscellaneous application(s), if any, shall stand disposed of accordingly.

[HARPREET SINGH BRAR]
JUDGE

01.05.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No