



his both sons on 28.09.1992 and in pursuance thereof, mutation bearing No.4908 was sanctioned and both of them had become absolute owners of the properties. At that time, it was agreed that petitioner will maintain his brother Ramesh Kumar and his parents. Bansi Dhar died and after his death, petitioner discontinued to manage Ramesh Kumar and the respondent. Therefore, Ramesh Kumar and the respondent used to reside separately in the house, which was previously owned by husband of the respondent and petitioner used to reside in the house, which was earlier in the name of the respondent. Ramesh Kumar died unmarried and issueless on 11.02.2012. As such, the entire share of Ramesh Kumar in all the three properties has been inherited by the petitioner being the only legal heir. Petitioner is not taking care of the respondent, who is 72 years old and he is not paying any maintenance to the respondent and he used to give beatings to the respondent and deserted her from the house.

CONTENTIONS

3. Learned counsel for the petitioner *inter alia* contends that respondent is having sufficient means to maintain herself. She has inherited 1/6th share in the land measuring 9 *bighas* and 14 *bishwas* in village Dhanothi Bari, Rajasthan. After the death of her son namely Ramesh Kumar, she is also the owner of residential house, in which 03 shops have been constructed and she has been generating income from the agricultural land as well as rental income. As such, the petitioner cannot be held liable to maintain her.

4. *Per contra*, learned counsel for the respondent submits that property owned by the respondent was transferred in the name of the petitioner and his brother Ramesh Kumar and after the death of Ramesh Kumar, the part of the property in the name of Ramesh was transferred in the name of



respondent, however, the same was in possession of the petitioner and as such, she has no source of income.

OBSERVATIONS AND ANALYSIS

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioner.

6. 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 the provision of Section 125 Cr.P.C. does not degenerate into a tool of punishment. 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 provision of Section 125 Cr.P.C. was enacted as a measure to further social justice and protect dependent women, children and parents, which also falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

7. 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.”



8. 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.”

9. A perusal of the impugned order indicates that the learned Family Court has passed the impugned order in a well-reasoned after duly appreciating the facts of the case. Learned Family Court has relied upon Mark R-1 and Mark R-2 and concluded that there is no documentary evidence on record that respondent is the owner of residential house and 03 shops. The respondent has no source of income to sustain herself and it is evident on record that respondent and her husband have transferred their property in the name of the petitioner by way of civil court decree, which is produced on record as Mark-A and Mark-B and the petitioner, being son of the respondent, is under moral obligation to pay maintenance to his mother.

CONCLUSION

10. Thus, 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 the respondent. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Therefore, present petition stands dismissed, being bereft of any merit.
11. All the pending miscellaneous application(s), if any, shall also stand disposed of.

August 28, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |