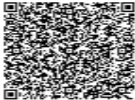


CRR(F)-401-2017
CRR(F)-456-2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on : 29.04.2024
Pronounced on : 09.05.2024

1. CRR(F)-401-2017 (O&M)
Rajesh Kumar

... Petitioner

Vs.

Partap Singh and others

... Respondents

2. CRR(F)-456-2017 (O&M)
Partap Singh and another

... Petitioners

Vs.

Rajesh Kumar and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the petitioner (in CRR(F)-401-2017).

Ms. Dolly Shivani, Advocate
for the petitioners (in CRR(F)-456-2017) and
for the respondents (in CRR(F)-401-2017).

Mr. Pankaj Rana, Advocate for
Mr. R.S. Malik, Advocate
for respondent No.3 (in CRR(F)-401-2017) and
for respondent No.2 (in CRR(F)-456-2017).



HARPREET SINGH BRAR, J.

1. This common judgment shall dispose of both the aforementioned revision petitions as they arise out of identical factual matrix. However, for the sake of brevity, the facts are taken from CRR(F)-401-2017.

2. The present revision petition is preferred against order dated 25.08.2017 passed by the learned District Judge, Family Court, Sonipat, whereby Rs.400/- per month was awarded to respondents No.1 and 2 each as maintenance under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

FACTUAL BACKGROUND

3. Briefly, the facts of the case are that respondent No.1- Partap Singh and respondent No.2- Koshlya Devi are husband and wife, aged about 60 years each and have three sons together namely, the petitioner-Rajesh Kumar, Sunil Kumar and Rahul. The parents i.e. respondents No.1 and 2, have transferred all their moveable and immoveable properties among their sons and do not have any independent source of income in order to maintain themselves. Unable to maintain themselves, they moved an application under Section 125 Cr.P.C. seeking maintenance allowance from their sons- the petitioner and Sunil Kumar. The said claim was contested by the sons and a reply was filed. After assessing all the material available on record, the

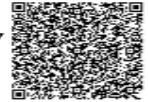


learned Family Court, vide order dated 25.08.2017, granted Rs.400/- per month as maintenance to respondents No.1 and 2 each, payable by the petitioner and respondent No.3 individually. Aggrieved by the same, respondents No.1 and 2- the parents, have approached this Court seeking enhancement of the quantum of maintenance, while the petitioner- Rajesh Kumar has preferred a revision petition seeking setting aside of the impugned order.

CONTENTIONS

4. There is no representation on behalf of the petitioner- Rajesh Kumar, as was the case on the last date of hearing. However, a perusal of the present petition bearing no. CRR(F)-401-2017 indicates that the petitioner assails the impugned order on the ground that his parents- respondents No.1 and 2 had stopped bearing his expenses due to which he had to stop his education. Further, they did not transfer any property in his name, rather he has been disowned by them as reflected vide newspaper publication dated 29.05.07 (Annexure P-4). Moreover, respondents No.1 and 2 had sold the ancestral properties about 25 years ago and shifted to Delhi, only to return back to Sonipat on 05.04.2007.

5. Furthermore, Respondent No.1 is in the business of supplying medicines and also works as a Munshi, earning about Rs. 15,000/- to Rs. 20,000/- per month, while respondent No.2 runs a clothing shop from home and makes about Rs. 20,000/- to Rs. 25,000/- per month. On the other hand,



the petitioner is a labourer and lives in a rented accommodation in Karnal with his wife and children. Moreover, the petitioner was shunned out of their house and the dowry articles presented to him by his wife's family also remain with respondents No.1 and 2. The petitioner attempted to resolve the matter, but to no avail. Unfortunately, a case under Sections 498A, 406, 506 of IPC was registered by the wife of the petitioner against respondent No.1 and 2 due to their cruel behaviour.

6. Learned counsel for respondents No.1 and 2- parents, *inter alia*, contends that a meager amount of Rs. 400/- each has been awarded as maintenance to the parents, which is not in consonance with actual income of their sons. The petitioner-Rajesh Kumar is a contractor, earning more than Rs.30,000/- per month while respondent No.3-Sunil Kumar works at Champion Gym Fitness Equipment Pvt. Ltd., Rai, earning about Rs.30,000/- per month. The parents- respondents No.1 and 2, had requested their sons to maintain them, but they refused to do the same, leaving them with no other option but to file a petition under Section 125 Cr.P.C. The parents have already transferred all of their moveable and immoveable properties in favour of their sons which legally binds them to maintain their parents. However, the learned Family Court has fallen into grave error by granting an abysmally low amount as maintenance, without duly considering the facts of the case as well as the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



7. Learned counsel appearing on behalf of respondent No.3-Sunil Kumar submits that his parents had turned him out of the house in the year 2012 and since then, he is living in a rented accommodation along with his wife and two children. He is working in a private firm and earning about Rs.6,200/- per month. Since he is duty bound to maintain his wife and two school-going children, he cannot be made liable to maintain respondents No.1 and 2 as well.

OBSERVATIONS AND ANALYSIS

8. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

9. 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.



10. 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. A perusal of the records indicates that petitioner- Rajesh Kumar is earning Rs.30,000/- per month and respondent No.3-Sunil Kumar is earning about Rs.11,000/- per month. Being sons of respondent No. 1 and 2, they are duty bound to maintain their parents, who are unable to maintain themselves on account of old age, especially when they have transferred their moveable and immoveable property to them.

13. A perusal of the impugned order indicates that the learned Family Court has passed the impugned order in a perfunctory manner, without duly appreciating the facts of the case. A meager amount of Rs.400/- per month each has been awarded to respondents No.1 and 2, payable by the petitioner and respondent No.3 each. The quantum of maintenance is not in consonance with the earning capacity of their sons i.e. petitioner and respondent No.3 and deserves enhancement.

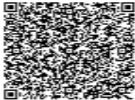
CONCLUSION

14. Therefore, the revision petition bearing no. CRR(F)-456-2017, filed by Partap Singh and Koshlya Devi, the parents, is partly allowed while, the revision petition bearing no. CRR(F)-401-2017 filed by Rajesh Kumar, the son, is dismissed, being bereft of any merit. Accordingly, in view the spiralling inflation rates, this Court finds it just and proper to enhance the amount of maintenance granted to respondents No.1 and 2 from Rs.400/- per month each to Rs. 1,000/- per month each, payable by both the petitioner and

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respondent No.3, individually.

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

[HARPREET SINGH BRAR]
JUDGE

09.05.2024
vishnu

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No