



109

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1027-2024 (O&M)
Date of decision: 12.08.2024

Amanpreet Singh

... Petitioner

Vs.

Sukhwinder Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanjeev Majra, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned order dated 24.07.2024 passed by learned Principal Judge, Family Court, Ambala, vide which the application filed by the petitioner seeking dismissal of the petition filed by the respondent under Section 125 Cr.P.C., has been dismissed.
2. Brief facts of the case are that mother of the petitioner died on 09.05.2007. Thereafter, his father performed second marriage with respondent-Sukhwinder Kaur on 02.09.2007 and out of this wedlock, no child was born. At the time of second marriage of his father with the

2024:PHHC:103879



respondent, the petitioner was of tender age and he never accepted the respondent as his mother. She never treated the petitioner as her own child and she used to mentally and physically harass him and his sisters. Thus, the petitioner is step son of the respondent. Father of the petitioner died on 11.05.2021 due to COVID-19 pandemic. Therefore, the respondent filed a petition under Section 125 Cr.P.C. seeking maintenance of Rs.2.00 lacs per month from the petitioner and he filed an application seeking dismissal of the petition under Section 125 Cr.P.C. Learned Family Court, vide impugned order dated 24.07.2024, dismissed the said application. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner, *inter alia*, contends that learned Family Court fell into grave error by passing the impugned order. It is admitted fact that the respondent is step-mother of the petitioner and she has invoked the provisions of Section 125 Cr.P.C., which do not apply to the step-mother and the respondent is not biological mother of the petitioner. Further, behaviour of the respondent was very cruel towards late father of the petitioner and she also initiated four cases against the petitioner. Moreover, it is settled law that the respondent being step-mother can seek maintenance by invoking Section 20 of Hindu Adoptions and Maintenance Act, 1956. As such, the petitioner being step-son of the respondent, is not liable to maintain her.

4. Having heard learned counsel for the petitioner and after

2024:PHHC:103879



perusing the record with his able assistance, this Court finds no force in the arguments advanced on behalf of the petitioner.

5. 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.

6. 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.”

7. Another objective the legislature has sought to achieve by this provision is to provide maintenance *pendente lite* to the applicant

2024:PHHC:103879



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.

8. Even if the petitioner is not biological son of the respondent, however, in view of settled law, the respondent is well within her right to seek maintenance from the petitioner under Section 125 Cr.P.C. The Hon'ble Supreme Court in ***Kirtikant D. Vadodaria Vs. State of Gujarat, 1996 (3) RCR (Crl.) 147***, has interpreted the expression "mother" used in Section 125(1)(d) Cr.P.C. and has categorically held that expression "mother" would include natural mother. However, step-mother can claim maintenance from her step-son, if she is childless and widow. 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

2024:PHHC:103879



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.”

9. In view of ratio of law laid down by the Hon’ble Supreme Court in ***Kirtikant D. Vadodaria***’s case (*supra*), the petition under Section 125 Cr.P.C. filed by the respondent being widow and childless is maintainable and she can seek maintenance from the petitioner being her step-son. Learned counsel for the petitioner 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.

2024:PHHC:103879



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

12.08.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

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