



**209-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR(F)-633-2019 (O & M)
Date of decision: 08.11.2024**

AJAI PAL JOHL

...PETITIONER

V/S

MS MINA JOHL

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr.Akshay Jindal, Advocate and
Mr. Abhishek Shukla, Advocate
for the petitioner.

Ms. Mani Chander, Advocate for the respondent.
(through video conferencing)

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred against judgment dated 03.07.2019 passed by learned Family Court, Panchkula, whereby, in proceedings under Section 125 of Cr.P.C., maintenance of Rs.25,000/- per month was awarded to the respondent, daughter of the petitioner.

2. The respondent-daughter of the petitioner was born on 22.10.1985 and she is a qualified Bachelor in Civil Engineering from PEC Chandigarh. Petitioner and mother of the respondent got divorced in the year 2013. The respondent is the only daughter of the petitioner and has no source of income. Therefore, she filed a petition under Section 125 Cr.P.C. seeking maintenance. The petitioner filed a reply and contested the claim made by the respondent. The learned Family Court vide order dated 03.07.2019 granted maintenance allowance of ₹25,000/- per month in favour of the respondent. 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 the learned Family Court has fallen into grave error by awarding the maintenance



to the respondent, which is exorbitant in nature. The petitioner is an old aged person and has no source of income. Further, the respondent is a well-qualified lady and is capable of sustaining herself. Lastly, since the respondent has now turned major, she would be precluded from seeking maintenance in view of Section 125 (1)(c) of Cr.P.C.

4. *Per contra*, learned counsel for the respondent submits that respondent has no source of income and her substantial savings have been exhausted in order to ensure the well-being of her mother. Further, the learned Family Court below has taken into consideration all the attending circumstances and has rightly granted Rs.25,000/- per month as maintenance to the respondent.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court finds force in the arguments advanced by learned counsel for the petitioner. However, before proceeding with the instant petition, it would be prudent to reproduce the provisions, relevant for this case, as laid down under Section 125 Cr.P.C.:

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

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

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xxx

(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

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xxx

6. With regard to grant of maintenance to children, who have turned major, the law is now well settled. A three Judge bench of the Hon'ble Supreme Court in ***Abhilasha vs. Prakash 2020 AIR SC 4355*** has held that a major unmarried daughter, who does not suffer from any physical or mental disability, shall not be entitled to maintenance from her father under Section



125 Cr.P.C. However, she will continue to have the remedy available under Section 20(3) of the Hindu Adoption and Maintenance Act, 1956. Speaking through Justice Ashok Bhushan, the following was observed:

“12. The Act, 1956 was enacted to amend and codify the law relating to adoptions and maintenance among Hindus. A bare perusal of Section 125(1) Cr.P.C., 1973 as well as Section 20 of Act, 1956 indicates that whereas Section 125Cr.P.C., 1973 limits the claim of maintenance of a child until he or she attains majority. By virtue of Section 125(1)(c), an unmarried daughter even though she has attained majority is entitled for maintenance, where such unmarried daughter is by reason of any physical or mental abnormality or injury is unable to maintain itself. The Scheme under Section 125(1) Cr.P.C., 1973 thus, contemplate that claim of maintenance by a daughter, who has attained majority is admissible only when by reason of any physical or mental abnormality or injury, she is unable to maintain herself. In the present case, the Revisional Court has returned a finding that appellant is not suffering from any physical or mental abnormality or injury due to which she is unable to maintain herself. The above findings are not even questioned before us. What is contended that even if she is not suffering from any physical or mental abnormality or injury, by virtue of Section 20 of Act, 1956, she is entitled to claim maintenance till she is unmarried.”

7. A perusal of the impugned order passed by the learned Family Court makes it evident that the respondent herein was 29 years old at the time of the institution of the petition under Section 125 of Cr.P.C. Moreover, there is nothing on record to suggest that she is suffering from any physical or mental abnormality or injury. As such, the learned Family Court has failed to appreciate that the respondent being a major child cannot claim maintenance in view of observations made by Hon’ble Supreme Court in *Abhilasha* (supra).

8. Accordingly, the present revision petition is allowed and the impugned order dated 03.07.2019, vide which an amount of Rs.25,000/- per month was awarded to the respondent, stands set aside.

9. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(HARPREET SINGH BRAR)
JUDGE

November 08, 2024
manisha

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