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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1088-2024 (O&M)
Date of decision: 29.08.2024

Jitender Kumar

... Petitioner

Vs.

Muskan (minor) adopted daughter of Jitender Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned order dated 16.07.2024 passed by learned Principal Judge, Family Court, Jhajjar, vide which, in an application filed under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), interim maintenance of Rs.8,000/- per month was awarded to be paid to the respondent.
2. Briefly, the facts of the case are that the petitioner and his wife adopted the respondent, who is daughter of real brother of the petitioner, by way of registered adoption deed dated 17.12.2014 (Annexure P-1). However, after some time, the respondent left the company of the petitioner and joined the company of her natural parents and now she is not coming back to the



petitioner. Thereafter, natural father of the respondent started blackmailing the petitioner and his wife to take back custody of the respondent, he demanded money and the petitioner transferred lot of money in his bank account. After coming to know that natural parents of the respondent are greedy and they want to usurp his property and the money, the petitioner and his wife filed a petition under Section 16 of the Hindu Adoptions and Maintenance Act, 1956 and under Section 34 of Specific Relief Act, 1963. As a counter-blast to the same, the respondent filed an application under Section 125 Cr.P.C. seeking interim maintenance of Rs.15,000/- per month. The petitioner filed a reply and contested the claim made by the respondent. Learned Family Court, vide order dated 16.07.2024, granted interim maintenance allowance of Rs.8,000/- 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 petitioner has been extending help to his brother and adopted his daughter-respondent just to have affection of a daughter. However, the respondent, who is adopted daughter of the petitioner, started living with his natural parents since 2020. Now brother of the petitioner has become unscrupulous and is eyeing on agricultural land owned by the petitioner. It is further contended that the petitioner and his wife have already approached the concerned jurisdictional Court for cancellation of adoption deed dated 17.12.2014 (Annexure P-1).



4. Having heard learned counsel for the petitioner and after 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 child 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 child. 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. 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.”

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

8. While dealing with the issue of maintenance *in extenso*, a two Judge Bench of the Hon’ble Supreme Court in ***Rajnesh Vs. Neha and another, (2021) 2 SCC 324*** laid down the criteria for determining quantum of maintenance and issued the following directions:

"VI Final Directions

130. In view of the foregoing discussion as contained in Part B -1 to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:

(a) Issue of overlapping jurisdiction

131. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:

(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding:

(ii) it is made mandatory for the applicant to disclose the



previous proceeding and the orders passed therein, in the subsequent proceeding;

(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding

(b) Payment of Interim Maintenance

132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.

(c) Criteria for determining the quantum of maintenance

133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.

134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.

(e) Enforcement/Execution of orders of maintenance

136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."

9. From perusal of the record, it transpires that the petitioner is serving in Indian Army and his salary is not disputed. At this stage, only



interim maintenance has been awarded by learned Family Court, which is subject to adjustment at the time of final disposal and the parties are yet to prove their respective claims by adducing the evidence. Further, perusal of the impugned order passed by 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 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. Accordingly, the present petition is dismissed being bereft of any merit.

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

11. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned Family Court shall proceed without being prejudiced by observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

29.08.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No