

Jagdish Jugtawat

v.

Manju Lata & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE D.P. MOHAPATRA HON'BLE MR. JUSTICE
BRIJESH KUMAR HON'BLE MR. JUSTICE D.M. DHARAMADHIKARI

Special Leave to Petition (Criminal) No. 905 Of 2001 | 23-04-2002

1. By the order passed on 23.2.2001, notice was issued to the respondents to show cause why the order granting maintenance in favour of Respondent 3 Kumari Rakhi shall not be modified to the extent that she is entitled to receive maintenance only till she attains majority. In view of the said order, learned counsel for the parties have confined their submissions to that question.

2. The petitioner is the father of Kumari Rakhi, Respondent 3 herein, who is a minor unmarried girl. Considering the application filed under Section 125 of the Criminal Procedure Code by Respondent 1, wife of the petitioner and mother of Respondent 3, claiming maintenance for herself and her two children, the Family Court by order dated 22.7.2000 granted maintenance @ Rs 500 per month to each of the applicants. The petitioner herein filed a revision petition before the High Court assailing the order of the Family Court on the ground, inter alia, that Respondent 3 was entitled to maintenance only till she attains majority and not thereafter. Considering the point the learned Single Judge of the High Court accepted the legal position that under Section 125, CrPC, a minor daughter is entitled to maintenance from her parents only till she attains majority, but declined to interfere with the order passed by the Family Court taking the cue from Section 20(3) of the Hindu Adoptions and Maintenance Act under which the right of maintenance is given to a minor daughter till her marriage. The learned Single Judge was persuaded to maintain the order of the Family Court with a view to avoid multiplicity of proceedings. The relevant portion of the judgment of the High Court is quoted here:

“Thus, in view of the above, though it cannot be said that the order impugned runs counter to the law laid down by the Hon’ble Supreme Court, the provisions of Section 125 CrPC are applicable irrespective of the personal law and it does

not make any distinction whether the daughter claiming maintenance is a Hindu or a Muslim. However, taking an overall view of the matter, I, with all respect to the Hon'ble Court, am of the candid view that the provisions require literal interpretation and a daughter would cease to have the benefit of the provisions under Section 125 CrPC on attaining majority, though she would be entitled to claim the benefits further under the statute/personal law. But the Court is not inclined to interfere, as the order does not result in miscarriage of justice, rather interfering with the order would create great inconvenience to Respondent 3 as she would be forced to file another petition under subsection (3) of Section 20 of the Act of 1956 for further maintenance etc. Thus, in order to avoid multiplicity of litigations, the order impugned does not warrant interference.”

3. In view of the finding recorded and the observations made by the learned Single Judge of the High Court, the only question that arises for consideration is whether the order calls for interference. A similar question came up for consideration by this Court in the case of Noor Saba Khatoon v. Mohd. Quasim, AIR 1997 SC 3280 : 1997 (6) SCC 233 : 1997 SCC (Cri) 924 relating to the claim of a Muslim divorced woman for maintenance from her husband for herself and her minor children. This Court while accepting the position that Section 125, CrPC does not fix liability of parents to maintain children beyond attainment of majority, read the said provision and Section 3(1)(b) of the Muslim Women (Protection of Rights on Divorce) Act together and held that under the latter statutory provision liability of providing maintenance extends beyond attainment of majority of a dependent girl.

4. Applying the principle to the facts and circumstances of the case in hand, it is manifest that the right of a minor girl for maintenance from parents after attaining majority till her marriage is recognized in Section 20(3) of the Hindu Adoptions and Maintenance Act. Therefore, no exception can be taken to the judgment/order passed by the learned Single Judge for maintaining the order passed by the Family Court which is based on a combined reading of Section 125, CrP.C. and Section 20(3) of the Hindu Adoptions and Maintenance Act. For the reasons aforesaid we are of the view that on facts and in the circumstances of the case no interference with the impugned judgment/order of the High Court is called for.

5. The Special leave petition is accordingly dismissed.