

MADHYA PRADESH HIGH COURT

Rewalal Arjun Babu

Vs.

Ramlabai Arjun Babu

Cr. R. No. 709 of 1983

(S.K. Seth, J.)

11.07.1984

ORDER

S.K. Seth, J

1. The present revision arises out of an application under section 125 of the Code of Criminal Procedure made by Smt. Kamalbai in the Court of Judicial Magistrate and pending disposal in the said Court. In the said application, Smt. Kamalbai claimed maintenance from her son and two 'step sons'.
2. The Judicial Magistrate accepted the preliminary objection taken by the step sons that the application of Smt. Kamalbai was not maintainable against them. Smt. Kamalbai preferred a revision before the Court of Session. The Court of Session was of the view that the term 'mother' as used in section 125, Criminal Procedure Code included a 'step mother'. But, then, it did not express any final opinion on the point. It set aside the order passed by Judicial Magistrate and left the point to be decided by the Judicial Magistrate along with other points at the time of final disposal of the case. It is being aggrieved by the order passed by the Court of Session that the 'step sons' have filed the present revision in this Court.
3. There is substance in the argument of the learned counsel for the applicants that as the objection raised by the applicants related to a jurisdictional matter which went to the root of the case, the Court of Session was not justified in dealing with it in a half-hearted manner and not deciding it finally this way or that way. In case a 'step mother' was not entitled to claim maintenance from her 'step sons' under section 125, Criminal Procedure Code, there was no reason why the 'step sons' were made to participate in the proceedings till the end.

4. Coming to the merits of the objection raised by the applicants, it was to be borne in mind that the objection of section 125, Criminal Procedure Code was a secular one in the sense that it was independent of the obligation of the parties under their personal law. The object of the section was to provide a summary remedy to save dependents from destitution and vagrancy. The provision served a general social purpose. In other words, it applied to all parents, wives and children, irrespective of their religion or that of the opposite party. Since the right under section 125, Criminal Procedure Code was independent of the right, if any, under the personal law there was no bar against the claimants to pursue both the rights in competent forums so long as they did not get effective remedy. *Nanak Chand v. Chandra Kishore Aggarwal and others*,¹

5. In the abovesaid situation, bearing in mind the general social purpose of section 125, Criminal Procedure Code, it was reasonable to construe the different words used in it as per their natural meaning and there existed no justification for construing them in any special sense in which they understood under any particular personal law. The natural meaning of the word mother as contained in standard dictionary was a female parent i.e. a woman who has given birth to a child. But, then it was significant that the words father and mother have been used in the same context in the particular part of the section. In the case of the word father there being nothing repugnant in the subject or context, there was no reason to think that the word did not have the same meaning as it had as per its definition contained in clause (20) of section 3 of the General Clauses Act. As per its definition in the said clause, father in case of anyone whose personal law permits adoptions shall include an adoptive father. It was true that there was no similar definition of the word mother contained in the General Clauses Act. But, then, again there was no reason to think that the word 'mother' as used in the particular part of the section did not have as wide a meaning as the word 'father' used in the said part of the section had. There was no reason to think that when an adoptive father is entitled to claim maintenance from his 'adoptive son' under the provision, an 'adoptive mother' should not be similarly entitled to do so. In the said regard, this Court respectfully concurs with the view expressed by a Division Bench of the Bombay High Court in *Baban v. Parvatibai Dagdu Dange and another*,²

6. However, the case of a 'step mother' was altogether different. As already mentioned above, as per its natural meaning, the word 'mother' meant a female parent i.e. a woman who has given birth to a child. As per the said meaning, it did not include a

'step mother.' [See *Ramanbai v. Dinesh and another*,³]. Again, as in the particular context the word 'mother' received colour from the word 'father' its natural meaning got extended so as to include an 'adoptive mother'. But then, there was nothing in the particular context which could provide a reason for extending the above said extended meaning of the word 'mother' any further so as to include a 'step mother' also within its compass

7. In the opinion of this Court, therefore, when section 125, Criminal Procedure Code provided that a mother' unable to maintain herself was entitled to claim maintenance under the said section it meant that a 'natural mother' i.e the woman who had given birth to the child and an adoptive mother' i. e. the woman who had taken the child in adoption were alone entitled to make such against the natural son' and the 'adopted son' respectively. A Step mother' was not entitled to make any such claim against her 'step son' under the said section.

8. For the reasons stated above, the revision is allowed. The impugned order i. e. the order dated 3.10.1983 passed by the Court, of Session is .set aside and the order dated 2-12-1982 passed by the Judicial Magistrate holding that the application for maintenance made by Smt. Kamlabai was not maintainable as against her step sons i.e. Rewalal and Keshav Prasad is restored.

Revision allowed.

Cases Referred.

1. AIR 1970 SC 446
2. 1978 Cri. L J. 1436
3. 1976 Mh. LJ 565