

T. Vimala and Others Vs. S. Ramakrishnan

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Court : Chennai Madurai

Decided On : Jun-24-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : CrI.R.C.(MD)No. 180 of 2014

Appellant : T. Vimala and Others

Respondent : S. Ramakrishnan

Judgement :

(Prayer: This Criminal Revision Petitions is filed under Section 397 r/w. 401 Cr.P.C., praying to call for the records relating to the order dated 25.10.2013 made in Cr.R.P.No.25 of 2012 on the file of the Sessions Sessions Court, Dindigul and set aside the same by allowing the above Criminal Revision Petition and modifying order dated 14.09.2012 made in M.C.No.1 of 2010 on the file of the learned Judicial Magistrate, Palani.)

1. The revision petitioners 2 and 3, who are daughters of the respondent and the first revision petitioner, have directed this revision through their mother/first revision petitioner.
2. Family dispute arose between the first revision petitioner and the respondent. They got separated. Their daughters namely, revision petitioners 2 and 3 are with their mother. The mother and daughters have sought for maintenance in M.C.No.1 of 2010 before the learned Judicial Magistrate, Palani.

3. The learned Magistrate considering the materials on record, awarded them maintenance as detailed below.
1. First petitioner: Rs.1500/- p.m. from the date of petition.
 2. Second petitioner: Rs.1500/- towards maintenance and Rs.2000/- towards educational expenses from the date of petition.
 3. Third petitioner: Rs.1500/- towards maintenance and Rs.2000/- towards educational expenses from the date of petition.
4. The respondent filed Crl.R.C.No.25 of 2012 before the learned Principal Sessions Judge, Dindigul. The learned Principal Sessions Judge upheld the maintenance granted to the first revision petitioner, however, set aside the maintenance and educational expenses granted to the second revision petitioner, since she attained majority and it is not established that she is suffering out of any disability or injury. While, upholding Rs.1500/- granted to the third revision petitioner/second daughter deleted Rs.2000/- granted towards her educational expenses on the ground that such expenses will not fall under Section 125 Cr.P.C.
5. Aggrieved, the affected second and third revision petitioners have directed this revision through their mother/first revision petitioner.
6. The learned counsel for the revision petitioners, would submit that it is true that second daughter of the respondent has attained majority and it is true that it is not established that she is suffering out of any physical disability or injury, yet, as a father, the respondent is bound to provide her maintenance under Section 20 of the Hindu Adoptions and Maintenance Act. In such circumstances, the maintenance order in her favour ought not to have been disturbed. On this aspect, he would cite Jagdish Jugtawat v. Manju Lata and others [(2002) 5 SCC 422].
7. The learned counsel for the revision petitioners also contended that not granting of expenses towards education is unsustainable.
8. On the other hand, the learned counsel for the respondent would submit that the respondent is not employed anywhere. He is assisting his family in running a

dairy-farm. Further, the second daughter made claim only for Rs.2000/-, but what was granted to her is more. Further, after the divorce, the respondent has married again. He has to live with his newly married wife and also he is under obligation to provide her maintenance. It is a heavy burden upon him. He has no financial capacity.

9. I have anxiously considered the rival submissions, perused the impugned order and the materials on record.

10. No doubt, Section 125 Cr.P.C. is not happily worded, since it has prescribed certain riders for a daughter or son who has attained majority to claim maintenance from their father. They must establish that they are under physical disability or they are suffering out of injury. There may be cases, where a daughter or a son, even after having attained majority, may not have sufficient financial capacity to maintain themselves and they continue to need the support of their father. This is a reality of the situation. But, the Court cannot simply put the blame on the draftsman. Court must interpret the law. It should advance the cause of justice. That will be march of law.

11. In Jagdish Jugtawat v. Manju Lata and others [(2002) 5 SCC 422] exactly, as in our case, it was argued before the Hon'ble Supreme Court that the daughter having attained majority and as it has not been established that she is suffering out of any physical disability or injury, she is not entitled to maintenance from her father. The Hon'ble Supreme Court noticing the phraseology employed in Section 125 Cr.P.C. encountered a difficult situation. However, in its zeal to advance the scheme of social justice incorporated in Section 125 Cr.P.C. and to protect a daughter, who has attained majority, but who does not suffer any physical disability, the Hon'ble Supreme Court called in aid Section 20 of the Hindu Adoption and Maintenance Act and held that although in view of the rider attached to a daughter, who attained majority, she may not be eligible for maintenance under Section 125 Cr.P.C., yet she is eligible for maintenance under Section 20 of the Hindu Adoption and Maintenance Act from her father and thus maintained the maintenance order passed in her favour under Section 125 Cr.P.C.

12. Exactly, similar is the situation before us. The said Apex decision was not brought to the notice of the learned Principal Sessions Judge, Dindigul. Had it was produced, the thinking of the learned Principal Sessions Judge, Dindigul would have been different. So, in such view of the matter, scraping of maintenance granted to the second daughter on account of her attaining majority and her inability to establish physical disability is to be set aside.

13. One of the ratio of the learned Principal Sessions Judge, Dindigul, in scraping certain amount granted to the daughters under the caption 'educational expenses' is that it will not fall under Section 125 Cr.P.C.

14. The Code of Criminal Procedure is a procedural law dealing with enforcement of substantial Criminal Law, namely, the Indian Penal Code and other local laws, to the extent application of the Code, is not excluded. Section 125 Cr.P.C. does not speak about an accused or a defacto complainant. In proceedings under Section 125 Cr.P.C. to Section 128 Cr.P.C., police have no say. Actually it is a private(law) remedy available to wives, children and parents.

15. The framers of the Code have included Sections 125 to 128 Cr.P.C. in a criminal statute. Actually the law makers wanted that the wives, parents and children shall have quick remedy, so that they may be protected timely from vagrancy. The idea is laudable. These maintenance cases have to be disposed of in a summary manner. But, in practice, it is observed much in breach than adherence. These simple maintenance cases are being tried in the Magistrate Courts and Family Courts like most complicated Civil Suits, Civil Appeal and serious murder cases. In the end, these modern era Courts thrown away into their all purpose for which Section 125 has been introduced in the Code.

16. Nowhere in Cr.P.C., what 'maintenance' means has been stated. What its contents has been, what its 'components' has been stated. But it does not mean that we cannot state, what it means. It is our duty to interpret the law. We (Court) cannot simply blame the law makers that they have poorly enacted, drafted the law. It must be interpreted in such a way that the purpose for which the law has been enacted. Otherwise, it will be frustrated.

17. The learned Principal Session Judge, Dindigul preferred literal interpretation than purposeful interpretation. He read Section 125 Cr.P.C. couched in English language by referring to Oxford English Dictionary, but he did not look into the heart of the matter.

18. The very purpose of Section 125 Cr.P.C. is also to protect the children from want of roof, food, clothing and necessities of life. Education is an important aspect in children's life. Amounts need to be spent for it. Those expenses are educational expenses. Every father is bound to provide a good education to his children. No father is expected to produce a criminal or a disorderly person. Thus, he has to bear the educational expenses of his children. Children have to maintain their education by meeting the educational expenses. Even a man on the pavement will be dreaming of his children becoming a qualified person in life. Therefore, the obligation of a father to maintain, to meet the educational expenses of his children cannot be excluded for the component of maintenance. Section 125 Cr.P.C. is not only for food for life, it should also be for food for thought. Otherwise, so far as the children are concerned, we will be doing violence to the very object of Section 125 Cr.P.C.

19. In view of the forgoings, the impugned order of the learned Principal Sessions Judge, Dindigul, passed in Cr.R.P.No.25 of 2012 is modified to the effect that the second revision petitioner/Akalya and the third revision petitioner/Poovitha are granted Rs.3,000/-p.m. and Rs.2,500/- p.m. respectively, from the date of original maintenance petition.

20. Accordingly, this Criminal Revision Petition is disposed of.

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