

Syed Abdul Karim Vs. Fatima-unnisa Begum

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Court : Andhra Pradesh

Decided On : Mar-16-1950

Reported in : 1951CriLJ208

Judge : Naik, C.J. and ;Mohd. Ahmed Ansari, J.

Appellant : Syed Abdul Karim

Respondent : Fatima-unnisa Begum

Judgement :

ORDER

1. Vakils for the parties were heard. A point of law in this case has been referred to us by a single Judge of the High Court, The point is, whether the word 'child' used in Section 411, Hyderabad Criminal P.C., this Section being equivalent to Section 488, Indian Criminal P.C. does not cover the case of a daughter of 19 years so as to preclude her from suing her father for maintenance under the section. There are conflicting decisions on this point, which has been mentioned by the Hon'ble Judge in his reference. The first is reported in 36 Deccan Law Report 169, in which it is held that 'child' means one who is a minor, and the other is in 29 Deccan Law Report 244. where it is held that 'child' means son or daughter and such person need not be minor. In the latter judgment, emphasis is laid on the words 'unable to maintain himself.' I agree with this latter authority and hold that the word 'child' as used in Section 411 of the Code means son or daughter and such person need not necessarily be a minor. When age is not mentioned in the section, I cannot restrict the meaning of the word 'child' to only minors. The object of the section appears to be clear the relationship between father and child is such that when one of the parties is unable to maintain himself, the other is required to maintain him, i. e., when the father is not in a position to maintain himself, duty is cast on the child to maintain the father, and similarly when the child is unable to maintain himself, duty is cast on the father to maintain the child. The criterion is ability or disability to maintain oneself and not age. Therefore, I am of the opinion that importance is not attached to the age of the person but to the ability to maintain oneself. This case is referred back to the single Judge with this reply.

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