



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-1112-2022 (O&M)
Date of decision:07.07.2025

Bhavya Pathania and another

...Petitioner(s)

Versus

Navdeep Pathania

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Baani Chhibber Mahajan, Legal Aid Counsel with
Mr. Prateek Mahajan, Advocate and
Ms. Solani Sharma, Advocate, for the petitioners.

Mr. J.S. Mahal, Advocate, for the respondent.

Mr. Preetinder Singh Ahluwalia, *Amicus Curiae* with
Ms. Bhavi Kapur, Advocate and
Mr. Jaiveer Singh, Advocate.

JASGURPREET SINGH PURI, J.

1. An important question of law which has arisen in the present case is whether an unmarried major daughter is entitled for the grant of maintenance from her parents or not in a proceeding under Section 125 of the Code of Criminal Procedure and if yes, then under what circumstances.

Facts of the present case

2. Two daughters of the respondent, aged 19 years and 15 years, filed a petition under Section 125 of the Code of Criminal Procedure for the grant of maintenance against their father before the learned Principal Judge, Family Court, Gurdaspur which was allowed by way of impugned order dated 06.05.2022 by granting maintenance of Rs.10,000/- per month each to both the daughters from the date of filing of the application till both of them either get



married or get employed, whichever is earlier along with litigation expenses to the tune of Rs. 5,000/-.

3. The present is a Criminal Revision Petition filed by both the daughters for modification and enhancement of the maintenance amount with a prayer that the amount be enhanced to Rs. 20,000/- per month each along with litigation expenses of Rs. 50,000/-.

4. The marriage between the mother of the petitioners and the respondent, who is the father of the petitioners, was solemnized on 08.12.1997 and out of the said wedlock, petitioners No.1 and 2 were born on 01.09.1998 and 19.08.2002 respectively. The relationship between the mother of the petitioners and the respondent turned sour and as per the allegations, the respondent also gave beatings to the mother of the petitioners and she came back to her parental house. Complaints in this regard were also moved to the police. The petitioners along with their mother are now residing in a house belonging to the father of the respondent but they are living separately from the respondent.

5. At the time of filing of the petition before the learned Principal Judge, Family Court, petitioner No.1 was pursuing a degree of B.Sc. at DAV University, Jalandhar and after completion of the same, she also completed her B.Ed. and M.Sc. in Chemistry and at that point of time, she was major of the age of 19 years and as per the learned counsel for the parties, she is still unmarried. Petitioner No.2 was studying in 11th Standard in Jiya Lal Mittal, DAV Public School, Gurdaspur and is pursuing a Bachelor's degree in Veterinary Sciences from Khalsa College, Amritsar. She was a minor of the age of 15 years at the time of filing of the petition and she has now attained the age of majority and she is also unmarried.



6. Before the learned Principal Judge, Family Court, it was proved on record that the mother of the petitioners is working as a Teacher in Government Senior Secondary School, Tibber and is drawing a salary of Rs. 48,000/- per month. So far as the respondent who is the father of the petitioners is concerned, it was proved on record that his gross salary was Rs. 1,18,000/- per month, which he admitted during his cross-examination. The Principal Judge, Family Court had granted maintenance of Rs.10,000/- per month each to the petitioners which according to the respondent, he had been paying to the petitioners. It was also the case of the respondent that he was paying the school fee as well as admission fee of the petitioners.

7. There was neither anything on the record before the learned Principal Judge, Family Court nor before this Court nor the same has been pleaded by the respondent who is the father of the petitioners to show that the petitioners are employed or have any source of income. Therefore, the fact that both the petitioners, though majors, are unmarried and unemployed is not in dispute. It is also not in dispute that the petitioners have attained various educational qualifications. It is further not in dispute that the petitioners along with their mother have been residing separately from the respondent since the year 2017, although they are living in a house belonging to the father of the respondent.

Submissions made by the learned counsel for the parties

8. Learned counsel for the petitioners submitted that she is a Legal Aid Counsel for the petitioners and the prayer in the present petition is for the modification and enhancement of the maintenance amount awarded by the learned Principal Judge, Family Court, Gurdaspur on the ground that the maintenance amount awarded is on the lower side considering the status of the



parties, educational qualification of the petitioners, the fact that the petitioners have no source of income and other relevant factors including the cost of living. She submitted that although the petitioners are living with their mother, who is employed as a Teacher and is earning Rs. 48,000/- per month but it is a case where the mother of the petitioners has not filed any petition for the grant of maintenance from the respondent. At the same time, the petitioners who are the daughters of the respondent have filed a petition for the grant of maintenance as their independent right, which accrues to them under Section 125 of the Code of Criminal Procedure, being a statutory right. She submitted that so far as the salary of the respondent who is the father of the petitioners is concerned, it is an admitted position that he is drawing a salary of Rs. 1,18,000/- per month and therefore, it is not a case where the respondent lacks the means to pay maintenance to the petitioners and rather, he has substantial means to do so under the provisions of Section 125 of the Code of Criminal Procedure. She further submitted that it would become a case of contributory maintenance by both the mother and the father but the income of their mother is less than half of that of their father and at the same time, the petitioners are residing with their mother after separation from the respondent. She also submitted that the mother of the petitioners has her own expenditures to incur including household expenses and therefore, the amount of maintenance fixed by the learned Principal Judge, Family Court i.e., Rs. 10,000/- per month each to both the petitioners is on the lower side and is liable to be enhanced to Rs. 20,000/- per month each. She further submitted that out of the respondent's total salary of Rs. 1,18,000/- per month, an amount of Rs. 20,000/- per month each, totalling Rs. 40,000/- per month for both the petitioners who are his daughters is a reasonable amount which is approximately 1/3rd of his total salary, and



therefore, the petitioners are entitled for the same under the law. Learned counsel also submitted that at the time of filing of the petition, both the petitioners were studying in higher classes and they have since completed their respective degrees. She submitted that the amount of Rs. 10,000/- per month each is insufficient taking into consideration the cost of living, cost of education, medical expenses and various other expenditures to be borne by the petitioners, who are grown-up daughters of the respondent. She also specifically submitted that both the petitioners are unmarried, unemployed and have no source of income of their own.

9. On the other hand, learned counsel appearing on behalf of the respondent submitted that so far as the amount of Rs. 10,000/- per month each to the petitioners is concerned, the respondent has already been paying the said amount to the petitioners and he does not dispute the same but no case is made out for enhancement of the aforesaid amount, as the mother of the petitioners is also earning, being a Teacher and she herself has withdrawn from the society of the respondent without any reason or excuse and therefore, no case is made out for enhancement of the maintenance amount.

10. Learned counsel for the respondent also submitted that the petitioners are not entitled for maintenance under Section 125 of the Code of Criminal Procedure since they have attained the age of majority and even if they are unmarried, they are not entitled for maintenance as they are majors. He submitted that under the provisions of Section 125 of the Code of Criminal Procedure the maintenance can be granted by the parents only to their minor children. He further submitted that at the time of filing of the petition under Section 125 of the Code of Criminal Procedure before the learned Principal Judge, Family Court, petitioner No.1 was already major i.e. of the age of 19



years which is an undisputed fact and petitioner No.2 was of the age of 15 years regarding which at the most she would have been entitled for maintenance for a period of three years only i.e. till the age of majority and thereafter, both the petitioners are not entitled for maintenance by virtue of the provisions of Section 125 Cr.P.C and therefore, the present petition is liable to be dismissed on this ground as well. He further submitted that the learned Principal Judge, Family Court while granting the maintenance by way of the impugned order also directed that the maintenance of Rs. 10,000/- per month each for the petitioners will be given by the respondent till both the petitioners get married or they get employment whichever is earlier. He submitted that the aforesaid finding was erroneous because by virtue of Section 125 Cr.P.C under which the petition was filed by the petitioners before the learned Principal Judge, Family Court, a major child is not entitled for the grant of maintenance. He however specifically submitted that the respondent has not challenged the present impugned order. He also submitted that the respondent is ready and willing to pay the aforesaid amount of maintenance of Rs. 10,000/- per month each to the petitioners but the amount be not enhanced in view of the aforesaid facts and circumstances and also in view of the fact that now both the petitioners have attained the age of majority and therefore, the present petition may be dismissed.

11. Learned counsel appearing on behalf of the petitioners while replying to the arguments raised by the learned counsel for the respondent pertaining to the maintainability for grant of maintenance to an unmarried major daughter submitted that the petitioners being unmarried daughters, although attained the age of majority were certainly entitled for the grant of maintenance even in a proceeding under Section 125 Cr.P.C because the jurisdiction to try



the proceedings under Section 125 Cr.P.C vests with Family Court under the provisions of the Family Courts Act, 1984. The present impugned order has been passed by the learned Principal Judge, Family Court, Gurdaspur under the provisions of the Family Courts Act, 1984. She submitted that even if under the provisions of Section 125 of the Code of Criminal Procedure, the right vests in a daughter who is a minor but at the same time, the right to seek maintenance also vests in the petitioners under the Hindu Law by virtue of the provisions of Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 whereby even a major daughter is entitled for the grant of maintenance. She submitted that in the State of Punjab, the Family Courts Act, 1984 is operative and Family Courts have been set up to entertain the dispute pertaining to matrimonial disputes as well as claims of maintenance and in this way, a suit/petition/application filed under Section 20 (3) of the Hindu Adoptions and Maintenance Act, 1956 also lies before the learned Family Court. She submitted that in this way for both the proceedings i.e. under Section 125 of the Code of Criminal Procedure and also under Section 20 (3) of the Hindu Adoptions and Maintenance Act, 1956, the jurisdiction vests with the Family Court in the State of Punjab. She further submitted that the right to seek maintenance even after attaining the age of majority accrues from the provisions of the Hindu Adoptions and Maintenance Act, 1956 and therefore, even if the right of a major daughter is not vested under the provisions of Section 125 Cr.P.C, still in order to avoid multiplicity of litigations and considering the inherent right under the Hindu Law and the statutory provisions of the Hindu Adoptions and Maintenance Act, 1956, the learned Family Court is empowered to grant maintenance to an unmarried major daughter.



12. Learned counsel relied upon the judgments of Hon'ble Supreme Court in *Jagdish Jugtawat Versus Manju Lata, 2002(5) SCC 422 and Abhilasha Versus Parkash, 2021 (13) SCC 99* and submitted that in view of the aforesaid judgments, the petitioners were entitled for the grant of maintenance even in a proceeding under Section 125 Cr.P.C despite the fact that they have attained the age of majority being unmarried and unemployed because the jurisdiction to try proceedings under Section 125 Cr.P.C as well as Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 vests with the Family Court in the State of Punjab. She submitted that in view of the aforesaid legal position, the objection raised by the learned counsel for the respondent was not sustainable.

13. This Court on 24.02.2025 had appointed Mr. Preetinder Singh Ahluwalia, Advocate as *Amicus Curiae* to assist this Court on the aforesaid proposition of law as to whether an unmarried major daughter was entitled for grant of maintenance in a proceeding under Section 125 Cr.P.C or not.

14. Mr. Preetinder Singh Ahluwalia, learned *Amicus Curiae* addressed arguments on the aforesaid question of law and also referred to various judgments in this regard. He also referred to the judgments of Hon'ble Supreme Court in *Jagdish Jugtawat's case (Supra) and Abhilasha's case (Supra)*. He submitted that as per the aforesaid judgments in a proceeding under Section 125 Cr.P.C, a daughter after attaining the age of majority, even if unmarried was not entitled for the grant of maintenance. However, the aforesaid proposition is not absolute in nature. While referring to the aforesaid judgments particularly in *Abhilasha's case (Supra)*, he submitted that when proceedings under Section 125 Cr.P.C have been instituted and taken place before the learned Judicial Magistrate where the Family Courts are not operative, an



unmarried major daughter was not entitled for the grant of maintenance being purely under Section 125 Cr.P.C under which it is not permissible for a major daughter. However, when the petitions under Section 125 Cr.P.C are being tried by a Family Court established under the Family Courts Act, 1984 and by way of the personal law/statutory law governing the parties, an unmarried daughter is otherwise entitled for the grant of maintenance even after attaining the age of majority, then there can be no bar for the learned Family Court to grant maintenance, even under Section 125 Cr.P.C to an unmarried major daughter. He submitted that in the present case the parties are governed by the provisions of the Hindu Adoptions and Maintenance Act, 1956 and under the provisions of Section 20(3), an unmarried major daughter was also entitled for the grant of maintenance and a suit/petition under Section 20 (3) of Hindu Adoptions and Maintenance Act, 1956 also lies before the Family Courts in the State of Punjab. Petition under Section 125 Cr.P.C in the present case as well was also filed before the learned Family Judge who passed the impugned order. In this way, the jurisdiction for trial of a petition under Section 125 Cr.P.C and under Section 20 (3) of the Hindu Adoptions and Maintenance Act, 1956 vests with the Family Court in the State of Punjab and therefore, in view of the aforesaid judgment of the Hon'ble Supreme Court in ***Abhilasha's case (Supra)***, there is no bar for grant of maintenance to an unmarried major daughter in the present case.

15. Mr. Preetinder Singh Ahluwalia, learned *Amicus Curiae* further referred to various other judgments of the High Courts of other States. He referred and relied upon a Division Bench judgment of Kerala High Court in ***Muhammed Shaji Versus State of Kerala and others, 2023(2) ILR Kerala 406***, a judgment of Bombay High Court in ***Murlidhar Krushnarao Virulkar Versus***



Ku. Neha, 2025 (1) AIR BomR (Cri) 227, a judgment of Allahabad High Court in *Awadhesh Singh Versus State of U.P and others, 2025(168) ALR 850* and another judgment of Allahabad High Court in *Kumari Nidhi Gupta Versus State of U.P. and another, 2024 (164) ALR 587* wherein it was so observed that an unmarried major daughter was entitled for the grant of maintenance, even in a proceeding under Section 125 Cr.P.C in case the same is tried by a Family Court where both the jurisdictions vest. He also referred to a judgment of this Court in *Archana and others Versus Virender Singh, CRR(F)-779-2024, decided on 29.05.2024* wherein it was held that so far as the unmarried daughter is concerned, liberty was granted to an unmarried major daughter to file a petition under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956.

Analysis of question of law

16. A legal issue involved in the present case is as to whether an unmarried major daughter was entitled for the grant of maintenance under Section 125 Cr.P.C or not. It needs to be considered in the light of statutory provisions of law as well as judgments of Hon'ble Supreme Court and other High Courts.

17. Section 125 of the Code of Criminal Procedure is reproduced as under:-

“125. Order for maintenance of wives, children and parents.—

(1) If any person having sufficient means neglects or refuses to maintain—

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by



reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct: Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient mean”.

18. Under the new Act i.e. Bharatiya Nagarik Suraksha Sanhita, 2023, provisions similar to Section 125 Cr.P.C for grant of maintenance to the wives, children and parents have also been incorporated in Section 144 of BNSS, 2023. However, there has been a slight change in the provisions of Section 144 (1) (b) of BNSS, 2023, whereby now the expression 'minor' has been deleted which was earlier in existence in Section 125 Cr.P.C. Section 144(1) (b) is reproduced as under:-

“144 (1) (b) his legitimate or illegitimate child, whether married or not, unable to maintain itself; or”

19. Since the issue involved in the present case is pertaining to Section 125 Cr.P.C only, the legal issue involved in the present case would be confined only to the provisions of Section 125 Cr.P.C and not Section 144 of BNSS, 2023.

20. Section 20 of the Hindu Adoptions and Maintenance Act, 1956 is reproduced as under:-

“20. Maintenance of children and aged parents.—(1) Subject to the provisions of this section a Hindu is bound, during his or



her life-time, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

(2) A legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor.

(3) The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property”.

21. A perusal of the provisions of Section 125 Cr.P.C would show that grant of maintenance is permissible for minor children and therefore in a proceeding under Section 125 Cr.P.C, an unmarried major daughter is not entitled for the grant of maintenance purely on the basis of the provisions of Section 125 Cr.P.C. However, the aforesaid impermissibility under Section 125 Cr.P.C is not absolute and is subject to exceptions and by virtue of Section 125(1) (c) of Cr.P.C., a major child not being a married daughter can claim maintenance after attaining majority where such child is by reason of any physical or mental abnormality or injury unable to maintain herself.

22. In ***Jagdish Jugtawat’s case (Supra)***, the learned Family Court granted maintenance to an unmarried major daughter as well which was assailed before the learned Single Judge of the High Court which accepted the legal position that under Section 125 Cr.P.C, a minor daughter is entitled to maintenance from her parents only till she attains majority but at the same time declined to interfere with the order passed by the learned Family Court taking cue from Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 under which the right of maintenance was granted to a minor daughter till her marriage. The learned Single Judge of the High Court declined to interfere because of the reason so as to avoid multiplicity of litigations and therefore, did



not interfere in the order passed by the learned Family Court whereby maintenance was granted to an unmarried major daughter. The aforesaid judgment of the learned Single Judge was assailed before the Hon'ble Supreme Court. The Hon'ble Supreme Court also declined to interfere in view of the facts and circumstances of the case. The relevant portion of the aforesaid judgment of the Hon'ble Supreme Court contained in para No.3 and 4 are reproduced as under:-

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 . 1997 6 SCC 233](#) 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 Cr.P.C 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 Cr.P.C. and Section 20(3) of the Hindu Adoptions and Maintenance Act. For the reasons aforestated 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.

23. In ***Abhilasha's case (Supra)***, this issue again came up for consideration before the Hon'ble Supreme Court. Two questions were framed in para No.7 of the judgment as follows:-

*“7.1. (i) Whether the appellant, who although had attained majority and is still unmarried is entitled to claim maintenance from her father in proceedings under **Section 125 Cr.P.C** although she is not suffering from any physical or mental abnormality/injury?*

7.2 (ii) Whether the orders passed by learned Judicial Magistrate as well as learned Revisional Court limiting the claim of the appellant to claim maintenance till she attains majority on 26.04.2005 deserves to be set aside with direction to the respondent 1 to continue to give maintenance even after 26.04.2005 till the appellant remains unmarried?

24. Both the aforesaid questions being inter-connected were taken up together i.e. as to whether a Hindu unmarried daughter is entitled to claim maintenance from her father under Section 125 Cr.P.C only till she attains the age of majority or she can claim maintenance till she remains unmarried. Hon'ble Supreme Court also referred and discussed its earlier judgment in ***Jagdish Jugtawat's case (Supra)*** and observed that in the aforesaid judgment, the Supreme Court had refused to interfere with the judgment of High Court but in refusal to interfere, no ratio can be read in the judgment of ***Jagdish Jugtawat's case (Supra)***. Hon'ble Supreme Court discussed a correlation between Section 125 Cr.P.C. and Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 particularly in the context of the Court of jurisdiction. It was observed that Section 20 of the Hindu Adoptions and Maintenance Act,



1956 casts a clear statutory obligation on a Hindu to maintain his unmarried daughter who is unable to maintain herself and this right when she is unable to maintain herself is absolute and has been given under personal law and therefore it can be enforced against her father. Even in the judgment passed by Hon'ble Supreme Court in *Jagdish Jugtawat's case (Supra)*, it was held that under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956, a minor girl was entitled to claim maintenance after she attains majority till her marriage from her father and therefore unmarried daughter is clearly entitled for maintenance from her father till she is married even though she has become major, which is a statutory right recognized by Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 and can be enforced by an unmarried daughter in accordance with law.

25. It was further observed by Hon'ble Supreme Court that after the enactment of the Family Courts Act, 1984, the Family Court exercised jurisdiction which was earlier exercisable by Judicial Magistrate First Class under Cr.P.C. relating to the order for maintenance of wife, children and parents and so far as those places where the Family Court is not established, a suit or a proceeding for maintenance including the proceedings under Section 20 of the Hindu Adoptions and Maintenance Act, 1956 are maintainable at District Court or any other subordinate Civil Court. In this way, where the Family Court is not established or operative, a petition under Section 125 Cr.P.C. is tried by Judicial Magistrate First Class and proceeding under Section 20 of the Hindu Adoptions and Maintenance Act, 1956 lies before a District Court or any subordinate Civil Court. However at the same time in those cases where the Family Court has been established and is operative and has jurisdiction to decide a case under Section 125 Cr.P.C. as well as a suit under Section 20 of the Hindu Adoptions



and Maintenance Act, 1956, then in such eventuality, Family Court can exercise jurisdiction under both the Acts and in an appropriate case can grant maintenance to an unmarried daughter even though she has become major enforcing her right under Section 20 of the Hindu Adoptions and Maintenance Act, 1956 so as to avoid multiplicity of proceedings which is in consonance with the earlier judgment passed by Hon'ble Supreme Court in ***Jagdish Jugtawat's case (Supra)***. However, learned Magistrate in exercise of powers under Section 125 Cr.P.C. cannot pass such an order. In the facts of the aforesaid case before Hon'ble Supreme Court, the application for maintenance was filed under Section 125 Cr.P.C. before the learned Judicial Magistrate First Class, Rewari and therefore, proceedings under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 could not have been filed before the Magistrate and therefore, after attaining the age of majority, maintenance was held to be not permissible. Paras No.32, 33, 34 and 35 of the aforesaid judgment are reproduced as under:-

“32. The provision of Section 20 of the 1956 Act casts clear statutory obligation on a Hindu to maintain his unmarried daughter who is unable to maintain herself. The right of unmarried daughter under Section 20 to claim maintenance from her father when she is unable to maintain herself is absolute and the right given to unmarried daughter under Section 20 is rightly granted under personal law, which can very well be enforced by her against her father. The judgment of this Court in Jagdish Jugtawat (supra) laid down that Section 20(3) of the 1956 Act recognised the right of a minor girl to claim maintenance after she attains majority till her marriage from her father. Unmarried daughter is clearly entitled for maintenance from her father till she is married even though she has become major, which is a statutory right recognised by Section 20(3) and can be enforced by unmarried daughter in accordance with law.”



33. *After enactment of Family Courts Act, 1984, a Family Court shall also have the jurisdiction exercisable by a Magistrate of the First Class under Chapter IX Cr.P.C. relating to order for maintenance of wife, children and parents. Family Courts shall have the jurisdiction only with respect to city or town whose population exceeds one million, where there is no Family Court, proceedings under Section 125 Cr.P.C. shall have to be before the Magistrate of the First Class. In an area where the Family Court is not established, a suit or proceedings for maintenance including the proceedings under Section 20 of the 1956 Act shall only be before the District Court or any subordinate civil court.*

34. *There may be a case where the Family Court has jurisdiction to decide a case under Section 125 Cr.P.C. as well as the suit under Section 20 of the 1956 Act, in such eventuality, Family Court can exercise jurisdiction under both the Acts and in an appropriate case can grant maintenance to unmarried daughter even though she has become major enforcing her right under Section 20 of the 1956 Act so as to avoid multiplicity of proceedings as observed by this Court in Jagdish Jugtawat (supra). However the Magistrate in exercise of powers under Section 125 Cr.P.C. cannot pass such order.*

35. *In the case before us, the application was filed under Section 125 Cr.P.C. before Judicial Magistrate First Class, Rewari who passed the order dated 16.02.2011. The Magistrate while deciding proceedings under Section 125 Cr.P.C. could not have exercised the jurisdiction under Section 20(3) of the 1956 Act and the submission of the appellant cannot be accepted that the Court below should have allowed the application for maintenance even though she has become major. We do not find any infirmity in the order of the Judicial Magistrate First Class as well as the learned Additional Magistrate in not granting maintenance to the appellant who had become major.”*



26. Considering the aforesaid observations made by Hon'ble Supreme Court, it is clear that when a petition is filed under Section 125 Cr.P.C. which is tried by a Judicial Magistrate First Class under the provisions of Cr.P.C., an unmarried daughter after attaining the age of majority is not entitled for grant of maintenance because of the scope of the provisions of Section 125 Cr.P.C. However when in a place where Family Courts have been established and are operative and a petition is filed under Section 125 Cr.P.C. before a Family Court and at the same time under the respective personal laws, an unmarried daughter is also entitled for grant of maintenance from her father till she is married or gainfully employed, then in order of avoid multiplicity of litigations, the learned Family Court even in exercise of its powers under Section 125 Cr.P.C. can grant maintenance to an unmarried major daughter. One such example is that of the present case i.e. when right of maintenance in favour of an unmarried daughter from her father even after attaining of age of majority till she is married or gainfully employed is permissible under the Hindu Law by virtue of Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956, then in order to avoid multiplicity of litigations the learned Family Court is well within its jurisdiction and in the facts and circumstances of each and every case may grant maintenance to an unmarried major daughter till she gets married or till she is unable to maintain herself out of her own earnings or other property.

27. It will also be appropriate to refer to the judgments of various other High Courts in which the judgment of Hon'ble Supreme Court in *Abhilasha's case (Supra)* has been considered. A Division Bench of Kerala High Court in *Muhammed Shaji's case (Supra)* observed that the rationale behind grant of maintenance to an unmarried major daughter by a Family Court is that otherwise the claimant who has knocked the doors of the Court for maintenance



under Section 125 Cr.P.C. will have to again approach the Family Court with the latter plea, if the former plea is found to be rejected or not maintainable and therefore, technical approach should not be resorted to in such matters where the matters relate to maintenance claims with an objective not to drive the litigant to file a fresh claim. Paras No.29 and 30 of the aforesaid judgment are reproduced as under:-

“29. The Three-Judge Bench verdicts of the Apex Court in para 4 of Jagdish Jugtawat's case supra [(2002) 5 SCC 422] as well as para 33 of Abhilasha's case supra [AIR 2020 SC 4355], have clearly held that, even if a claim under Sec. 125 of the Cr. P.C. is liable to be repelled and if the claim is otherwise maintainable under the Personal Law, as enunciated in the Hindu Adoption & Maintenance Act, etc., then to avoid multiplicity of proceedings, the Family Court can consider the latter claim, even if it is bound to dismiss the former claim. The Apex Court in para 26 of Abhilasha's case supra [AIR 2020 SC 4355], has also referred to Muslim Personal Law provisions in that regard and the same reads as follows:

*“26. Muslim Law also recognises the obligation of father to maintain his daughters until they are married. Referring to Mulla's Principles of Mohammedan Law, this Court in **State of Haryana and others v. Santra (Smt.)**, [\(2000\) 5 SCC 182 : AIR 2000 SC 1888](#) in paragraph 40 held:—*

“40. Similarly, under the Mohammedan Law, a father is bound to maintain his sons until they have attained the age of puberty. He is also bound to maintain his daughters until they are married. [See : Mulla's Principles of Mohammedan Law (19th Edn.) page 300] “”

The simple rationale for this, as enunciated in the verdicts of the Apex Court, is that otherwise the claimant, who has knocked the doors of the Court, for maintenance under Sec. 125 of the Cr. P.C., will have to again approach the Family Court with the



*latter plea, if the former plea is found to be rejected or not maintainable. So, the approach taken by the Apex Court is clearly to the effect that, hyper-technical approach need not be resorted to in such matters, where such matters relate to maintenance claims and if the claim is otherwise maintainable, as stated above, then the Family Court, which has jurisdiction in that regard, can entertain such claims, without having to drive the litigant to file a fresh claim. Of course, this option is available only where the claim is made before the Family Court, since the Family Court will have jurisdiction to consider claims not only under Sec. 125 of the Cr. P.C., but also claims as in the Hindu Adoption & Maintenance Act as well as Muslim Personal Law, etc. The abovesaid approach, initially enunciated in **Jagdish Jugtawat's case supra [(2002) 5 SCC 422]**, has been reiterated by the Apex Court in **Abhilasha's case supra [AIR 2020 SC 4355]**”.*

30. In the instant case, the claim has been made by the respondent herein before the Family Court. Hence, in answer to the reference issue, we would hold that, for a major unmarried Muslim daughter, who is not suffering from any physical or mental abnormality or injury, as envisaged in clause (c) of sub-section 1 of Section 125 of the Cr.P.C., a claim made before the Family Court under Section 125 of the Cr.P.C., will not be maintainable. However, in case the claimant appears to be otherwise eligible for maintenance, in terms of Muslim Personal Law, then the Family Court need not drive the litigant to file a fresh claim and with the wholesome objective of avoidance of multiplicity of proceedings in maintenance claims, the Family Court can entertain the maintenance plea, under Muslim Personal Law. We answer the reference accordingly”.

28. In **Murlidhar Krushnarao Virulkar's case (Supra)**, Bombay High Court observed that the learned Magistrate while exercising powers under Section 125 Cr.P.C. was not having any jurisdiction to pass any order of



maintenance for a major unmarried daughter unless she was suffering from any mental or physical abnormality or injury but at the same time such an order was permissible to have been passed by the learned Family Court who has jurisdiction to deal with the cases of granting maintenance under Section 125 Cr.P.C. as well as under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956. Para No.16 of the aforesaid judgment is reproduced as under:-

“16. Thus, the outcome of the aforesaid discussion is that the order of learned Magistrate granting maintenance to unmarried major daughter unable to maintain herself but not having any mental or physical abnormality or injury, while exercising jurisdiction under Section 125 of Cr. P. C. is not sustainable in the eye of law, but if such order is passed by learned Family Court, then it is certainly sustainable, since learned Family Court is having jurisdiction to deal with the cases of granting maintenance under Section 125 of Cr. P. C. as well as under Section 20(3) of HAMA, 1956. Admittedly, this point in respect of jurisdiction of the Magistrate vis-a-vis jurisdiction of the Family Court is not discussed in the impugned judgment, but it would be rather harsh, if the non-applicant/daughter is again asked to go for filing maintenance application under Section 20(3) of HAMA, 1956 afresh and that too after about 9 years. Therefore, the impugned order passed by the learned Family Court appears perfectly right as it was definitely possessing jurisdiction i.e. under Section 125 of Cr.P.C. as well as under Section 20(3) of the HAMA, 1956 simultaneously. Therefore, in the light of observation of the Hon’ble Apex Court in para 34 of the judgment in the case of Abhilasha (supra), no interference is required in the impugned judgment and the revision application therefore, stands dismissed and disposed of”.

29. In **Awadhesh Singh's case (Supra)**, Allahabad High Court observed that in that case an order which has been passed by the Family Court



which has jurisdiction to entertain application under Section 125 Cr.P.C. as well as under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956, no purpose will be served in interfering with the revision and relegating the daughter to move a fresh application before the same Court under different provision of law i.e. under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956. Paras No.50, 51 and 52 of the aforesaid judgment are reproduced as under:-

“50. In the present case, the order impugned has been passed by the family court exercising jurisdiction under Family Courts Act, 1984. The family court has jurisdiction for trying cases both under Section 125 Cr.P.C. as well as under Section 20 of the Act of 1956.

*51. In case of **Abhilasha v. Parkash (supra)**, the Supreme Court has held that an unmarried daughter has right of maintenance under Section 125 Cr.P.C. till she attains majority or is covered by the exception as carved out in the Section 125 Cr.P.C. The Supreme Court, however, declined to interfere with the order impugned before the Supreme Court for the reason that the proceedings were in the aforesaid case before Judicial Magistrate First Class and not before family court. The Judicial Magistrate First Class has no jurisdiction to entertain an application under Section 20 of the Act of 1956. The Supreme Court also granted liberty to the appellants before the Supreme Court to take recourse Sub-clause (3) of Section 20 of the Act of 1956, if so advised, for claiming any maintenance against her father.*

52. Since, in the present case, the order has been passed by the family court which has jurisdiction to entertain the application under Section 125 Cr.P.C. as well as application under Sub-clause (3) of Section 20 of Act of 1956, no purpose will be served in interfering with the



revision and relegating the daughter to move a fresh application before the same court under different provision of law i.e. Section 20(3) of Act of 1956, and therefore, I am not inclined to interfere with the order and consequently, the revision No. 83 of 2023 fails and is dismissed.”

30. In another judgment passed by Allahabad High Court in ***Kumari Nidhi Gupta's case (Supra)***, an order passed by the learned Family Court by which the grant of maintenance to a major unmarried daughter was declined was set aside by the High Court with a direction to treat the application moved by the applicant under Section 125 Cr.P.C. as an application moved under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 and to decide the same in accordance with law. Paras No.14, 15, 16, 17 and 18 of the aforesaid judgment are reproduced as under:-

*“14. In the present case, the family court has committed a legal error while dismissing the application for maintenance filed by the applicant from her father-present respondent No.2 only on the ground that she has attained age of majority despite the admitted fact that she was unmarried at the time of impugned judgement. The marriage of parents of the revisionist has already been dissolved by a decree of divorce passed on 12.7.2016, in **Matrimonial Suit No.65 of 2021, Lalit Gupta @ Manoj Gupta vs. Smt. Alka @ Bebi**, under Section 13 of Hindu Marriage Act and a lump-sum maintenance has been awarded in said order for maintenance to the mother and minor brother of the revisionist therein as the revisionist was residing with her father at that time. The family court is empowered to treat the application under Section 125 Cr.P.C. moved by the revisionist seeking maintenance from her father may be treated as maintenance petition under Section 20(3) of the Act, 1956 by the court below and same should have been liable to be decided accordingly, without dismissing the*



*application under Section 125 Cr.P.C. on technical ground that the application was not maintainable under Section 125 Cr.P.C. as the applicant-daughter had already attained age of majority and she was not entitled to seek maintenance under Section 125 Cr.P.C. A fine distinction has been drawn by Hon'ble Apex Court in **Abhilasha vs. Prakash and others (supra)** in this regard, where it is held that the provision of Section 20 of Act, 1956 cast clear statutory obligation on a Hindu to maintain his unmarried daughter who is unable to maintain herself. The right of unmarried daughter under Section 20 to claim maintenance from her father when she is unable to maintain herself is absolute and the right given to unmarried daughter under Section 20 is right granted under personal law, which can very well be enforced by her against her father. Unmarried daughter is clearly entitled for maintenance from her father till she is married even though she has become major, which is a statutory right recognised by Section 20(3) and can be enforced by unmarried daughter in accordance with law.*

*15. In the light of forgoing discussion and placing reliance on dictum of Hon'ble Apex Court in **Abhilasha vs. Prakash and others (supra)**, it is clear that in order to avoid multiplicity of proceedings, a consistent stand is liable to be taken that the petition under Section 125 Cr.P.C. can be entertained by Family Court without pushing the major daughter of the opposite party to file an independent petition seeking maintenance under Section 20(3) of the Act. The family court has got jurisdiction to decide the case under Section 125 Cr.P.C. as well as maintenance suit under Section 20 of the Act, 1956. Therefore, the family court can exercise jurisdiction under both the acts and in appropriate case can grant maintenance to unmarried major daughter from her father, even though she has become major, enforcing her rights under Section 20 of the Act, 1956, so as to avoid multiplicity of the proceedings.*



16. *Hon'ble Apex Court also held that there may be a case where the Family Court has jurisdiction to decide a case under Section 125 Cr.P.C. as well as the suit under Section 20 of Act, 1956, in such eventuality, Family Court can exercise jurisdiction under both the Acts and in an appropriate case can grant maintenance to unmarried daughter even though she has become major enforcing her right under Section 20 of Act, 1956 so as to avoid multiplicity of proceeding.*

17. *Accordingly, present criminal revision stands allowed and the impugned order passed by learned family court is set aside.*

18. *The Family Court concerned is directed to treat the application moved by the applicant/revisionist under Section 125 Cr.P.C. as an application moved under Section 20(3) of Hindu Adoption and Maintenance Act, 1956 and decide the same afresh in accordance with law and on merits of the case, after giving opportunity of hearing to both the parties, preferably within a period of three months from the date of presentation of certified order of this Court.”*

31. In a judgment passed by this Court in ***Archana's case (Supra)***, it was held that one of the petitioners who was the daughter and had attained the age of majority and was unmarried was entitled to maintenance only by reason of physical or mental abnormality or injury when she is unable to maintain herself and therefore, this Court observed that if so advised the petitioner who was an unmarried major daughter be at liberty to take recourse to Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956. In that case the petition under Section 125 Cr.P.C. was also filed before the learned Family Court. However this Court is of the considered view that this Court is bound to follow the law laid down by Supreme Court in ***Abhilasha's case (Supra)*** for answering the question of law in the present case.



32. The upshot of the aforesaid discussion and the judgments of Hon'ble Supreme Court particularly in *Abhilasha's case (Supra)*, the position of law which emerges is as follows:-

- (i) When a petition under Section 125 Cr.P.C. is filed for grant of maintenance by a daughter before a Judicial Magistrate First Class under the provisions of Cr.P.C., then she is entitled for grant of maintenance only till the time she attains the age of majority unless she is covered by the provisions of Section 125(1) (c) Cr.P.C. However, if the petition under Section 125 Cr.P.C. is filed before a Family Court established under the Family Courts Act, 1984, an unmarried major daughter is entitled for maintenance under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 which can also be filed before the learned Family Court, then in the given facts and circumstances of the case the learned Family Court is well within its rights to consider the grant of maintenance to an unmarried major daughter even if she is not suffering from any mental or physical abnormality or injury. In other words when jurisdiction to file a petition under Section 125 Cr.P.C. and a petition/suit under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 vests with the Family Court established under Family Courts Act, 1984, then grant of maintenance in favour of an unmarried major daughter is permissible and maintainable till the time she gets married or is unable to maintain herself out of her own earnings or other property.



Analysis of the facts of the present case

33. Government of Punjab in the Department of Home Affairs and Justice (Judicial-1 Branch) vide notification dated 24.08.2018 in exercise of powers conferred by Section 3 of the Family Courts Act, 1984 established Family Court at Gurdaspur.

34. Having so held that the petitioners were entitled for being considered for grant of maintenance even if they have attained the age of majority being the daughters of the respondent, the claim of the present petitioners for modification /enhancement of the maintenance can be considered accordingly. The petitioners who are unmarried daughters of the respondent are living with their mother from the year 2017 onwards and separately from the respondent who is their father. The mother of the petitioners is earning Rs.48,000/- per month as salary working as a School Teacher, whereas the respondent who is the father of the petitioners is earning Rs.1,18,000/- per month as salary. An amount of maintenance of Rs.10,000/- per month each has been granted by the learned Judge, Family Court to both the petitioners. At the time of filing of the petition before the learned Principal Judge, Family Court, petitioner No.1 was pursuing a degree of B.Sc. at DAV University, Jalandhar and after completion of the same, she also completed her B.Ed. and M.Sc. in Chemistry and petitioner No.2 was studying in 11th Standard in Jiya Lal Mittal, DAV Public School, Gurdaspur and is pursuing a Bachelor's degree in Veterinary Sciences from Khalsa College, Amritsar. The cost of living, cost of education, medical expenses and various other expenses are relevant factors for the purpose of considering the quantum of maintenance to be granted to the grown-up daughters by their father. The income of the father of the petitioners is also a very important relevant factor. Considering the facts and circumstances



of the present case, this Court is of the considered view that the quantum of maintenance fixed by the learned Judge, Family Court is not adequate.

35. Consequently, the present petition is allowed. The impugned order dated 06.05.2022 vide which maintenance of Rs.10,000/- per month each to both the petitioners has been granted by the learned Principal Judge, Family Court, Gurdaspur is modified by enhancing the quantum of maintenance to Rs.15,000/- per month each to both the petitioners from the date of filing of the present petition. However, there shall be no order as to costs.

36. Before parting with this judgment, this Court records its appreciation towards Mr. Preetinder Singh Ahluwalia, learned *Amicus Curiae* for his valuable assistance.

(JASGURPREET SINGH PURI)
JUDGE

07.07.2025

rakesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No