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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON 10th OF JULY, 2026

CRIMINAL REVISION NO.4968 of 2024

SHRI GANGA SINGH (HANDICAPPED)

Versus

SMT. DEVI SINGH AND ANOTHER

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Appearance:

Shri Ravendra Kumar Tiwari with Ms. Taneyaa Manucha, Advocates for the petitioner.

Ms. Priya Mishra, Advocate for respondents.
.....

ORDER

This criminal revision has been preferred by the petitioner (father of the respondent 2-Raksha Singh, major daughter) challenging the order dtd.13.08.2024 passed by Principal Judge, Family Court, Satna in MJCR No. 179/2023, whereby the Family Court has awarded an amount of Rs.2,000/- to the respondent 2 (major unmarried daughter) towards monthly maintenance pendente lite, however refused to award any maintenance to the respondent 1 (wife) on the ground that even prima facie, she does not appear to be legally wedded wife of the petitioner.

2. Learned counsel for the petitioner/father submits that the respondent 2 being major unmarried daughter, the application filed under



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Section 125 Cr.P.C. is not maintainable on her behalf. She also submits that repeatedly the respondent 2 assaulted the petitioner/father and filed several complaints against him, therefore also she is not entitled to any maintenance.

3. Taking this Court to the decisions of Hon'ble Supreme Court in the case of Abhilasha Vs. Parkash and others, **(2021) 14 SCC 99** (which is in relation to the jurisdiction of the family court); Ajay Kumar Rathee vs. Seema Rathee given in **Civil Appeal No. 5141/2011 vide order dtd.10.03.2022** (which is in relation to the proposition that if the daughter does not want to maintain any relationship with the father, she is not entitled to maintenance from her father); Mrs. Akella Lalitha vs. Sri Konda Hanumantha Rao & Anr., **2022 LiveLaw (SC) 638** (which is in relation to the proposition that the Court cannot travel beyond the pleadings and relief); and Sanjaysinh Ramrao Chavan vs. Dattatray Gulabrao Phalke and others, **(2015) 3 SCC 123** (which is in relation to scope of revisional power of the Court), learned Counsel submits that although the respondent 2 may be entitled to maintenance under Section 20(3) of the Hindu Adoption and Maintenance Act, 1956 (in short 'the HAM Act'), but for getting maintenance under Section 20(3) of the HAM Act, prerequisite condition is that major unmarried daughter should suffer with some disability. With support of the aforesaid decisions, she also submits that if the respondent 2 wanted any relief of maintenance, she should have prayed for conversion of the application under Section 125 Cr.P.C. into the application/suit under Section 20(3) of the HAM Act and



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in absence thereof, neither the Family Court has jurisdiction to entertain the application for granting the maintenance nor the respondent 2 is entitled to any maintenance. With these submissions, she prays for setting aside the impugned order and for allowing the criminal revision.

4. In turn, learned counsel for the respondents 1-2 (wife and major daughter) supports the impugned order and submits that the impugned order being an interim order of awarding monthly maintenance pendente lite to a major unmarried daughter, no interference is called for therein, at the present stage, especially in light of coordinate bench decisions in the case of *Dr. Jagdish Jugtawat v. Smt. Manjulata and Ors.*, **2000 Supreme (Raj) 662**; *Mustakim v. State of U.P. and another* in **CrI. Revision No. 3781/2014 vide order dtd.10.02.2015**; *Awdhesh Singh vs. State of UP & 2 Others* in **Cr.R. No. 83/2024 vide order dtd.02.08.2024** (at Allahabad); and *Shri Arun Kumar vs. Smt. Sarla & Anr.* in **CrI. Rev. P. 312/2023 & CrL. M.A. 7773/2023 vide order dtd.03.12.2025** (at Delhi).

5. Heard learned counsel for the parties and perused the record as well as the impugned order.

6. Apparently, a joint application under Section 125 Cr.P.C. has been filed by the respondents 1-2 (wife and major unmarried daughter, respectively) and on the date of filing of the application, the respondent 2 has shown herself to be major and maintenance has been claimed with the contention that the petitioner has deserted the respondents 1-2 and being hand to mouth, they are not in a position to maintain themselves. It is also



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contended that the petitioner-Ganga Singh is treating the respondents 1-2 with cruelty. Prima facie the application under Section 125 Cr.P.C. is maintainable only on behalf of the respondent 1 (wife) and even though the respondent 2 is an unmarried daughter but she being major on the date of application, the application under Section 125 Cr.P.C. does not appear to be maintainable but apparently joint application has been filed by wife and major daughter before the Family Court, who has jurisdiction to decide the application filed under Section 125 Cr.P.C. as well as the application/suit under Section 20(3) of the HAM Act.

7. In the case of Abhilasha (**supra**), the Hon'ble Supreme Court has held as under:-

“33. After enactment of the Family Courts Act, 1984, a Family Court shall also have the jurisdiction exercisable by a Magistrate of the First Class under Chapter IX of CrPC 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 CrPC 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 CrPC as well as the suit under Section 20 of the 1956 Act in such eventuality, the 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



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Court in Jagdish Jugtawat. However the Magistrate in exercise of powers under Section 125 CrPC cannot pass such order.”

8. In view of the aforesaid, it appears that the maintenance has been claimed on behalf of major unmarried daughter by filing application under wrong provision i.e. under Section 125 Cr.P.C. and it is well settled that mere mentioning of wrong provision in the application/petition, does not come in the way of justice and on that ground the Court cannot refuse to grant relief, which otherwise may be granted in the existing facts and circumstances of the case. In this regard, I find support from three decisions of Hon’ble Supreme Court in the case of N. Mani v. Sangeetha Theatre and others, **(2004) 12 SCC 278** (para 9); P.K. Palanisamy v. N. Arumugham, **(2009) 9 SCC 173** (para 27); and The Patna Municipal Corporation & Ors. v. M/s Tribro Ad Bureau & Ors., **2024 (8) Supreme 160** (para 29 to 31). Relevant paragraphs of the decision in the case of The Patna Municipal Corporation (supra), are reproduced as under :-

“29. The other aspect, which we would like to cover, is the proportionality/reasonableness in the enhancement of the rate from Re.1 per square foot to Rs.10 per square foot. Whilst at first blush, the jump may seem high, being ten times, ultimately, it is subjective. Nothing has been canvassed before us to indicate that such rate was exorbitant or disproportionate, requiring judicial interdiction. There is no dispute that in the Meeting held on 29.08.2005, the advertising companies did not object to payment of royalty, as sought by the Corporation. Hence, a challenge could, later be mounted on limited grounds to the quantum/rate of royalty, and not on the decision to charge royalty itself. Even otherwise, as we do not find that the ‘royalty’ was a tax/levy, the action of the Corporation cannot be struck down merely on the ground of having quoted Section 431 of the Act (wrongly), for, quoting the wrong provision of law, when the power to do an act otherwise exists, would not invalidate or render illegal the act in question. A Bench of three learned Judges in N Mani v Sangeetha Theatre, (2004) 12 SCC 278 held:

‘9. It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself



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does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law.’

(emphasis supplied)

30. The decision in N Mani (supra) was relied upon by two learned Judges in Ram Sunder Ram v Union of India, 2007 (9) SCALE 197, wherein this Court reiterated that quoting the wrong provision of law, when the authority concerned is otherwise empowered to carry out an act, could not vitiate the act on such ground alone. Likewise, and on taking note of N Mani (supra) and Ram Sunder Ram (supra), 2 learned Judges in P K Palanisamy v N Arumugham, (2009) 9 SCC 173 opined as under:

‘27. ... Only because a wrong provision was mentioned by the appellant, the same, in our opinion, by itself would not be a ground to hold that the application was not maintainable or that the order passed thereon would be a nullity. It is a well-settled principle of law that mentioning of a wrong provision or non-mentioning of a provision does not invalidate an order if the court and/or statutory authority had the requisite jurisdiction therefor.’

(emphasis supplied)

31. The above principle found acceptance also, inter alia, in Mohd. Shahabuddin v State of Bihar, (2010) 4 SCC 653 and State of Haryana v Raj Kumar, (2021) 9 SCC 292.”

9. As such, in the present case merely on the ground that the respondent 2 (major unmarried daughter) has filed the application under Section 125 Cr.P.C. instead of application/suit under Section 20(3) of the HAM Act, it cannot be said that the respondent 2 is not entitled to any maintenance that too interim maintenance pendente lite or the Family Court has no jurisdiction to pass the order of maintenance pendente lite on the application under Section 125 Cr.P.C.

10. For convenience, the provision of Section 20 of the Act is reproduced as under:-

“20. Maintenance of children and aged parents.—



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(1) Subject to the provisions of this section a Hindu is bound, during his or her lifetime, 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.

Explanation.-In this section “parent” includes a childless step-mother.”

11. In view of the aforesaid, it is clear that while seeking maintenance under Section 20(3) of the HAM Act, the major unmarried daughter has to show that she is not in a position to maintain herself out of her own earnings or other property and it is not necessary that she should also suffer with some disability.

12. The aforesaid requirement of the said provision is clearly fulfilled in the present case and nothing adverse has been pointed out by learned Counsel for the petitioner to the effect that the aforesaid requirement is not fulfilled in the present case.

13. In view of the aforesaid discussion, the decisions relied upon by learned counsel for the petitioner do not provide any help to the petitioner and looking to the nature of impugned order, this Court does not find any illegality therein.



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14. It has been informed by learned Counsel for the respondents, that the petitioner has not cleared the dues of interim maintenance. As such it is hereby observed that if the petitioner does not pay or deposit the interim maintenance amount ordered by the Family Court, it shall take strict action against the petitioner in respect of recovery of the maintenance amount and may also strike out the defence of the petitioner.

15. It is also observed that with a view to remove technical objection being raised by the petitioner, the respondents may pray for correction/conversion of the pending application, into “an application under Section 125 Cr.P.C. and Section 20(3) of the Hindu Adoption and Maintenance Act, 1956” because the application has been filed jointly, on behalf of wife and major unmarried daughter of the petitioner.

16. Resultantly and with the aforesaid observations, this criminal revision fails and is hereby **dismissed**.

17. Pending application(s), if any, shall stand disposed of.

(DWARKA DHISH BANSAL)
JUDGE