

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1216 of 2022**

- Birendra Kumar Tiwari S/o Shivbadan Tiwari Aged About 54 Years R/o U.S . Baba Colony, Ambikapur, District - Sargua Chhattisgarh

--- Applicant.**Versus**

- Ku. Neetu Tiwari D/o Birendra Kumar Tiwari Aged About 24 Years Presently Residing - Aman Nagar, Lane No - 10, Mowa, Mowa Thana, District - Raipur Chhattisgarh

--- Respondent.*CAUSE TITLE TAKEN FROM CIS PERIPHERY*

 For Applicant : Mr. Yatharth Singh, Adv.
 For Respondent : None.

Hon'ble Shri Justice Deepak Kumar Tiwari
Order On Board

07.12.2022

1. This revision has been preferred against the order dated 24.09.2022 passed by Principal Judge, Family Court, Raipur in Misc. Criminal Case No.311/2022 whereby applicant was directed to pay interim maintenance to the tune of Rs.5000/- to the respondent.
2. Shri Yatharth Singh would submit that respondent is the daughter of the applicant and she is 24 years old matured girl. He further submits that she is living separately from her parents without any rhyme or reason and the family members are willing to keep her with them but she is not ready to stay with them. The applicant is working as driver and earning Rs.38,020/- per month. However, due to personal loan, Rs.14,366/- gets directly deducted from his salary. He would further submit that applicant's wife is suffering from paralysis and including wife he has liability of 3 children in

which one child is going to the college whereas other two are school going children. He would also submit that during lockdown period applicant's daughter came under the influence of one person namely Animesh Sinha and since then without any consent of the parents she is living with him.

3. Counsel further submits that there is no averment that the respondent is suffering from any physical or mental abnormality or injury or unable to maintain herself, so she is not entitled to get maintenance under Section 125 Cr.P.C. In this regard he would place reliance in the matter of **Abhilasha Vs. Prakash and others** reported in **(2020) AIR SC 4355**.
4. Heard learned counsel for the applicant and perused the documents annexed with the petition.
5. It is explicit from impugned order that respondent has attained the majority and also pursuing B.A. final year. As per Section 125 Cr.P.C. to get maintenance daughter has to make out a case that she is unable to maintain herself or not attained the majority but in the present case, no such averment has been made. So the respondent is not entitled to get maintenance under Section 125 Cr.P.C. However, Section 20 (3) of the Hindu Adoptions and Maintenance Act, 1956 recognize rights of maintenance to children and it is statutory obligation of Hindu to maintain his or her daughter, who is unmarried and is unable to maintain herself out of her own earning of other property.
6. The Hon'ble Supreme Court in the matter of Abhilasha (Supra) has

observed in paragraph 31 as under:-

31. 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. The judgment of this Court in Jagdish Jugtawat (supra) laid down that Section 20(3) of Act, 1956 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.

7. Therefore, in view of the proposition held in Abhilasha (Supra) the application filed by the respondent under Section 125 Cr.P.C before the Family Court is not maintainable. Further, this Court reserves liberty in favour of the respondent/daughter to take recourse to Section 20 (3) of the Hindu Adoptions and Maintenance Act, 1956, if so advised, for claiming any maintenance against her father.
8. Reserving the aforesaid liberty, this revision is allowed and the impugned order is hereby quashed.
9. A copy of this order be sent to the concerned Court for necessary compliance.

Sd/-
(Deepak Kumar Tiwari)
Judge

Ajay