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Case Analysis of Mohd. Ahmed Khan v. Shah Bano Begum

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ABSTRACT

Legal precedent was set in India in 1985 with the Shah Bano case, which affirmed Muslim women's entitlement to alimony payments from their ex-husbands. Many Muslim women in India still encounter considerable obstacles to implementing this right over four decades after it was first established. This research intends to examine the legal, social, and economic aspects that contribute to the difficulty of enforcing maintenance payments for Muslim divorcees in India. This study will use in-depth interviews and focus groups with divorced Muslim women, legal professionals, and civil society organisations to identify the primary barriers to justice for women and to investigate possible solutions. The research intends to inform efforts to promote greater gender equality and access to justice for all, as well as to contribute to a better understanding of the complex and multifaceted problems that Muslim women in India experience in seeking maintenance payments after divorce.

Keywords: Marriage, Maintenance, Muslim Marriage, Court.

I. INTRODUCTION

The Mohd. Ahmed Khan v. Shah Bano Begum & Ors. or the Shah Bano maintenance case is seen as one of the legal milestones in battle for protection of rights of Muslim women. While the Supreme Court upheld the right to maintenance in the case, the judgment set off a political battle as well as a controversy about the extent to which courts can interfere in Muslim personal law. It empowers Muslim women with the right to maintenance beyond the period of 'iddat' under Section 125 of CrPC. Shah Bano case study is a prominent example of judicial activism to protect the rights of Muslim women in matters of marriage and divorce in regular courts.

II. FACTS OF THE CASE

The facts of the case can be summarized as thus²:

In 1932, Shah Bano Begum married Mohammad Ahmed Khan and had three sons and two daughters. Muslim law allowed the husband to remarry and have children with another. Shah Bano lived with them. Bano filed a petition under Section 125 of CrPC for Rs.500 maintenance

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² Mohd. Ahmed Khan v Shah Bano Begum, AIR 1985 SC 945.

in 1978 after being evicted from their matrimonial home in 1975. In 1978, Mohammad Ahmed Khan divorced her with triple talaq. In August 1979, the Magistrate ruled in favour of Bano and ordered him to pay Rs.25 against his annual income of Rs.60000, which the High Court of Madhya Pradesh later increased to Rs.179.20. Despite her meagre award, Mohammad Ahmed Khan, an advocate, appealed to the Supreme Court.

III. ARGUMENTS ADVANCED

Arguments of Appellant

- 1) Shah Bano had ceased to be Mohammad Ahmed Khan's wife due to the divorce given to her.
- 2) In accordance with Sharia law, he was only supposed to provide her maintenance for the iddat period, a period of three months, after such separation.
- 3) "He had already paid maintenance to her at the rate of Rs. 200 per month for about two years and... he had deposited a sum of Rs. 3000 in the court by way of dower during the period of iddat."
- 4) The marriage and divorce were to be governed by Muslim personal laws, over the CrPC, and he was thus no longer liable to maintain her.

Arguments of Respondent

- 1) According to Section 125 of CrPC, a man of means is supposed to maintain his divorced wife and children by her, if she is unable to provide for herself, until she remarries.
- 2) Her ex-husband would be liable to provide her with maintenance under this provision, as she had no ability to maintain herself.

IV. ISSUES RAISED IN THE CASE

1. Whether Section 125 of the Code Of Criminal Procedure³ is concerned with Muslims or not?
2. Whether the amount of Mehr given by the husband on divorce is adequate to get the husband rid and is liable to maintain his wife or not?
3. Whether Uniform Civil Code applies to all religions or not?

³ Section 125 of Code Of Criminal Procedure,1973

V. JUDGEMENT

The Chief Justice Chandrachud delivered the verdict in the Shah Bano case.

- According to the Supreme Court, Section of the Code applies to all citizens without regard to religion, so Section 125(3) of the Code of Criminal Procedure applies equally to Muslims. If there is a conflict between personal law and Section 125, the court said that Section 125 would apply. This section clarifies that the Muslim husband's obligation to support a financially dependent divorced after a divorce does not conflict with the provisions of Section 125.
- Since a Muslim husband's responsibility to his divorced ends after the iddat period, the Supreme Court correctly ruled that the husband still owes alimony to his ex-wife if she cannot support herself financially even after the iddat period has passed. The court added that this rule, which is based on Islamic law, is wrong because a divorced wife in this case cannot provide for herself.
- However, a husband's payment of Mehar upon divorce does not relieve him of his obligation to provide maintenance to his wife.
- Following a lengthy trial, the Supreme Court ruled that a husband's legal responsibility for his divorced wife ends once she proves she can provide for herself. But if the wife is unable to support herself after the Iddat period, she may be eligible for alimony or maintenance payments under Section 125 of the Criminal Procedure Code.

VI. AFTERMATH

The judgement given in Shah Bano Case was criticized among Muslims. Because of this, the Congress government in India in 1986 passed the Muslim women (Protection of Rights of Divorce) Act, 1986 into law. This law was enacted primarily to safeguard the legal status of Muslim women who have obtained a divorce from their husbands.

Because of the Supreme Court's ruling in the Shah Bano Begum Case, the government of Rajiv Gandhi passed this act to overturn it. This law establishes a right to maintenance during the Iddat period for Muslim divorced women. A father who has a child with a divorced wife, whether the child was born before or after the divorce, has a legal obligation to support the child financially for two years. Initiated with the date of a baby's birth. In addition, the woman has the right to her "Mahr" or "dower," as well as any and all property or estate given to her by her parents, friends, relatives, husband, or friends of her husband. If a Muslim woman goes through a divorce and doesn't get the benefits listed above from her ex-husband, she can ask the court

to force him to pay her alimony, a "Mahr" (dower payment), or a portion of his estate or properties⁴.

VII. CRITICAL ANALYSIS

The Supreme Court made it clear in the case *Mohd. Ahmed Khan v. Shah Bano Begum* that a Muslim woman who has been disowned or divorced by her husband and is unable to provide for herself or her children has the right to receive maintenance from him. There was a lot of criticism levelled at the Supreme Court at the time it handed down its verdict in the Shah Bano Case. It was against humanity and a violation of basic human rights at the time that Muslim women, married or single, were denied even the most basic forms of personal freedom. In comparison to women in other parts of the world, Muslim women had a lower social status. As a group, they lacked the education and independence of mainstream females. Due to the difficulties they encountered, they lost confidence and knowledge of other religions. In addition to these restrictions, they were also forbidden from working or furthering their education. Since they had to deal with these issues from a young age, it was only natural that they would require financial support from others during this trying period.

While the Supreme Court's ruling in the Shah Bano case was similar to that in other maintenance cases, the case's significance lay in the two "naked truths" that emerged during the proceedings. First, the spirituality of religious personal laws was criticised. Second, it was questioned whether the Uniform Civil Code is applied to all religions and their follies.

VIII. EFFECT ON OTHER CASES

Despite the Shah Bano Case, the conflict continued. After the Shah Bano Case ruling was overturned 30 years ago, there was much debate about how to interpret Muslim women's rights to financial support. The most notable judgements dealing with similar issues have been in the cases of *Jubair Ahmad v. Ishrat Bano* and *Daniel Latiffi & Anr. v. Union of India*. The Court's reasoning in the aforementioned case is highly relevant and could be useful for researching how the Shah Bano case affected the judicial system.

Daniel Latiffi & Anr. v. Union of India⁵

In the Daniel Latiffi case, the court addressed the important question of whether the Muslim Women's Act invalidated the Supreme Court's decision in the Shah Bano case. The constitutionality of the Muslim Women's Act was challenged because it was deemed

⁴ Muslim Women (Protection Of Rights Of Divorce) Act, 1986

⁵ Daniel Latiffi & Anr. v. Union of India, (2001) 7 SCC 740

discriminatory. It was also deemed a violation of Article 14 of the Indian Constitution because it denied Muslim women their right to maintenance, which was also upheld by Section 125 of the CrPC.

According to the court, maintenance would not be limited to the iddat period. The court correctly determined that the husband would be obligated to pay maintenance to his divorced wife for the rest of her life until she remarried. The Supreme Court attempted to strike a balance between the Shah Bano decision and the constitutionality of the Muslim Women's Act.

Jubair Ahmad v. Ishrat Bano⁶

The Ishrat Bano Case was decided in 2019 and dealt with a petition that raised the question of whether section 125 of the CrPC applied to a Muslim woman. The Hon'ble Allahabad High Court recognised that Section 125 is a tool to understand constitutional promise to realise gender justice.

The High Court learned Judge upheld the decision in Daniel Latiffi's case, ruling that a Muslim woman is entitled to maintenance beyond the iddat period. The Hon'ble High Court went so far as to recognise "right of maintenance" from the husband as an "absolute right" unless the wife remarried.

IX. SUGGESTIONS

1. When a community does not provide equal rights to all of its members, the state must step in to ensure that everyone is treated fairly under the law in a secular democracy. It is the responsibility of the state to use its authority to ensure that religious communities treat each member of the community in accordance with the laws of the nation state, even if doing so undermines the identity of the community as a whole.
2. Respect for religious laws can't be more important than following secular laws, and trying to change constitutional law through a religious lens is pointless and hurts the unity of the country. There shouldn't be any personal laws that go against the Constitution. This problem would be fixed if everyone had the same civil code. Like the rest of the country, the Muslim community has both liberals and conservatives. Secular democracy will only win when the law is applied the same way to each citizen.

X. CONCLUSION

In the recent case of Maintenance, the court issued a verdict that I believe will go down in

⁶ Jubair Ahmad v. Ishrat Bano, 2019 SCC OnLine All 4065

history as a landmark decision that affirms the judiciary's ability to deliver the truth and the people's trust in it. To me, the court's decision in this case was a watershed moment because it was so brave, bold, impartial, and original. This decision highlights the significance of maintenance, which should be provided to divorced Muslim women who are unable to provide for themselves financially.

The constitutionality of the aforementioned law was challenged in the Daniel Latiffi case, demonstrating the degree to which it was hotly debated. Each of the aforementioned cases dealt with the topic of "maintenance received by a Muslim Woman" and contributed to the development of solid legal principles on this topic.

The Supreme Court's ruling in the Shah Bano case was overturned when the Muslim Women Act was passed, but the court ruled in subsequent cases that divorced Muslim women have the right to claim alimony or maintenance from their ex-spouses under Section 125 of the Criminal Procedure Code. Even after all the sleazy manoeuvring, the Supreme Court managed to issue a fair ruling, restoring the public's faith in the judicial system.
