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# From Vows to Verdict: Analyzing the Legal Dimensions of Maintenance for Deserted Wives under Section 125 of CrPC

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## ABSTRACT

*Focusing on the landmark case of Chaturbhuj v. Sita Bai (2008) 2 SCC 316, the study painstakingly analyses the complex terrain of spousal maintenance. Amidst the reverberations of a disputed maintenance claim, the article unravels a legal web that interweaves the fine threads of post-divorce financial obligations. Following the steady beat of Section 125 of the Criminal Procedure Code, the study deftly traverses the constitutional wiggle room provided by Articles 15(3) and 39(a). This study delves deeply into the court's interpretation of the law, highlighting the importance of enduring obligations that remain even after a marriage ends. It sheds light on the larger social ramifications by exploring the junction of gender rights and financial responsibility. The composition provides a harmonious analysis of the everlasting commitments made by divorced couples as the legal symphony builds to a climax in the court's decision. It deftly blends legal ideas with societal imperatives, striking a chord that probes the precarious balance between individual autonomy and the state's responsibility to protect those who are vulnerable.*

**Keywords:** Section 125 CrPC, Maintenance, Desertion.

## I. INTRODUCTION

### CASE NAME: CHATURBHUJ V. SITA BAI (2008) 2 SCC 316

#### (A) Facts of the case

In the present case, Chaturbhuj is the petitioner and Sita Bai is the respondent. They were married for about forty years and divorced twenty years ago. Following Section 125 of the Code of Criminal Procedure (1973), the wife asked for Rs. 10,000 as maintenance. In addition, the respondent stated that she was unable to support herself since she was unemployed. However, the petitioner was receiving a pension of Rs. 8,000 as a retired employee of the Agriculture Department and an equivalent sum as housing rent. In addition to this, he engaged in the practice of lending money to individuals on interest. The appellant's position stated that the wife was

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living in the home he had built, that she had rented it out and had been living with one of their sons since 1979, that the wife had sold the agricultural land and retained the proceeds of the sale, and that she could support herself with the money from the sale of the land and the rent. Based on the evidence, the trial court ordered the husband to pay Rs. 1500 a month, ruling that the wife lacked sufficient financial means to support herself. After reviewing the facts, the revisional court dismissed the revision petition, finding that the appellant earned more than Rs. 10,000 a month and that the respondent-wife's rent was insufficient to support her. The appellant petitioned the High Court under section 482 Cr.P.C. The High Court dismissed the application, ruling that there was no room for interference because the trial court's and the revisional court's decisions were based solely on the evaluation of the evidence. Thus, an appeal was filed.

### **(B) Issues Raised**

- Is the deserted wife eligible for maintenance under Section 125 of the CrPC (1973) if she receives income?
- Whether Sita Bai could support herself with her income and, if so, if Chaturbhuj would have to pay her maintenance?

## **II. RULES**

### **(A) Relevant Legal Provisions**

#### **a. Section 125 of CrPC (1973)<sup>3</sup>**

Section 125(1) states that the person (husband) having sufficient means has the responsibility to maintain his wife who is unable to maintain herself and here, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried. If such person fails or refuses to pay maintenance, then a Magistrate of the first class upon the proof of such neglect or refusal, may order such person to make a monthly allowance for the maintenance of his wife.

#### **b. Section 482 of CrPC (1973)<sup>4</sup>**

Section 482 allows the High Court to quash criminal proceedings if the FIR or complaint's allegations taken at face value and in their totality, do not prima facie constitute an offense or make out a case against the accused. This power is exercised sparingly by the High Court. This power is vested in the High Courts to prevent abuse of process and secure the ends of justice.

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<sup>3</sup> The Code of Criminal Procedure, 1973, Section 125.

<sup>4</sup> The Code of Criminal Procedure, 1973, Section 482.

**c. Section 483 of CrPC (1973)<sup>5</sup>**

The High Court must exercise continuous supervision over the Courts of Judicial Magistrates. Each High Court is required to utilize its supervisory authority over the lower Courts of Judicial Magistrates in a manner that guarantees the prompt and appropriate resolution of matters by said Magistrates.

**d. Article 15(3) of the Indian Constitution<sup>6</sup>**

This article of the Constitution has given the State the power to make special provisions for women and children without any restriction. Such power of making special provisions is for safeguarding the interest of women and children.

**e. Article 39 (a) of the Indian Constitution<sup>7</sup>**

In this article, the State is supposed to follow certain principles of policy one of them is that citizens which includes both men and women equally, have the right to adequate means of livelihood.

**f. Section 488 CrPC<sup>8</sup>**

According to this section, if a person has sufficient resources but still neglects and refuses to support their wife, who is unable to support herself, then, Magistrate on the proof of such negligence has the power to order such person to give a monthly allowance to such a wife. If a person disobeys such directives, a magistrate will issue a warrant for the unpaid monthly allowance and may sentence them to up to one month in jail or other appropriate penalty.

**(B) Relevant Case Laws****a. Captain Ramesh Chander Kaushal Vs. Mrs. Veena Kaushal And Ors<sup>9</sup>**

The maintenance complainant must have sufficient finances, as decided in this case. In this case, the Supreme Court upheld a law that promotes social justice and protects women, children, the elderly, and the infirm under Article 15(3) and Article 39. Mrs. Veena, the respondent, married Capt. Kausal had two children. Respondent sought maintenance in criminal court, while Petitioner sought divorce in civil court. The high court ordered interim support of Rs. 400 per month for the spouse. The magistrate court increased maintenance for the mother and her two children to Rs. 1000 after analyzing the circumstances. According to the petitioner, Article 125

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<sup>5</sup> The Code of Criminal Procedure, 1973, Section 483.

<sup>6</sup> INDIA CONST. art. 15, cl.3.

<sup>7</sup> INDIA CONST. art. 39.

<sup>8</sup> The Code of Criminal Procedure, 1973, Section 488.

<sup>9</sup> Captain Ramesh Chander Kaushal vs. Mrs. Veena Kaushal and ors, (1978) 4 SCC 71.

of the CRPC allows a maximum maintenance award of Rs 500 for mothers and children. Apex Court dismissed the special leave plea after finding the magistrate court ruling fair.

**b. Savitaben Somabhaiya Bhatiya Vs. State Of Gujarat And Ors<sup>10</sup>**

The petitioner claimed she married respondent No. 2 in 1994 according to caste customs. The petitioner stayed with respondent No. 2 after knowing he was having an affair with Veenaben. So, she got pregnant and had a child. Respondent no. 2 disregarded the petitioner and the child, thus the petitioner filed a maintenance claim under article 125 of the CRPC with the Himmatnagar Judicial Magistrate, First Class. The second respondent said he married Veenaben 20 years ago and had two children. He denied marrying the petitioner. In official documents like the voter list and ration card, Veenaben was listed as the legal heir or wife of respondent No. 2, and the JMFC in Himmatnagar approved the application; however, after the respondent filed a criminal revision application before the Additional District Judge, who dismissed it, respondent No. 2 filed in the Gujrat High Court, which found that the appellant was not legally married. The appellant cannot obtain maintenance, yet the child receives Rs 500 each month. The appeal is denied.

**c. Bhagwan Vs. Kamla Devi<sup>11</sup>**

Kamla, respondent no.1, married on January 22, 1957, according to Hindu customs, and had a daughter, respondent no.2, on November 29, 1957. Respondent no.1 demanded a judicial separation based on cruelty and desertion and filed a separate application in the Magistrate Court of Delhi for maintenance for herself and her small daughter under Article 488 of the Code of Criminal Procedure, 1898. Respondent No. 1 was a stenographer earning Rs 600 per month, while the appellant made Rs 8000. The magistrate ordered the husband to pay Rs 250 per month because the respondent's independent income was not considered when calculating maintenance. The husband appealed the magistrate court's verdict to the revisional court, which found that the wife did not need maintenance because she could support herself. The high court sided with the wife under section 488 of the criminal procedure code. Finally, the husband appealed to the Supreme Court of India, which decided that the wife's independent income was maintained under section 488 of the 1898 criminal process law. Whether to give extraordinary leave for an appeal depends on this concept.

### **III. APPLICATION OF THE LEGAL PROVISIONS TO THE FACTS**

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<sup>10</sup> Savitaben Somabhaiya Bhatiya vs. State of Gujarat and ors, AIR 2005 SC 1809.

<sup>11</sup> Bhagwan vs. Kamla Devi, 1975 SCR 483.

**(A) Section 482 of CrPC, 1973**

Section 482 of Cr.P.C. delineates a procedural framework through which the High Court, exercising its inherent powers, can issue appropriate directives aimed at upholding the fundamental tenets of justice. In this case, the appellant challenged a High Court ruling in the Supreme Court. The High Court found lower courts' decisions based on evidence valid, providing maintenance to the wife. Supreme Court upheld the decision, stating lower courts' judgments were sound.

**(B) Article 15(3) of the Constitution of India, 1949**

In accordance with the constitutional provision outlined in Article 15(3), the state possesses the authority to establish special provisions aimed at improving the conditions of women and children. In the current scenario, wherein the party being addressed is a woman seeking maintenance, this provision highlights the significance of enacting measures that protect the rights and well-being of women, particularly in situations where they encounter difficulties in maintaining their means of subsistence. The invocation of Article 15(3) lends significant importance to Section 125 of the Code of Criminal Procedure (Cr.P.C.). Section 125 of CrPC safeguards women's and children's welfare. In *Captain Ramesh Chander Kaushal v. Mrs. Veena Kaushal*, the court upheld the wife's right to maintenance under Section 125 due to her incapacity to support herself, citing Article 15(3). The appeal was dismissed. In the present case, the court determined that the respondent-wife is eligible to receive maintenance as per Section 125 Cr.P.C., based on her demonstrated incapacity to support herself, as stated in Paragraph 9 of the ruling. The decision was strengthened by the invoking of Article 15(3) of the Constitution. As a result, the appeal was dismissed.

**(C) Article 39(a) of the Constitution**

The significance of Article 39(a) of the Indian Constitution in this particular instance is in its explicit emphasis on the notion that all citizens, including men and women equally, possess an equal and inherent entitlement to attain adequate means of livelihood. The current issue at hand is the respondent-wife's failure to sustain herself, as outlined in Paragraph 9 of the court's decision, which assumes significant importance. As a result, the affirmation of her right to sufficient means of livelihood is supported, resulting in the dismissal of the appeal and a subsequent directive from the Supreme Court for the appellant-husband to give maintenance to the respondent-wife. Within this particular context, Article 39(a) serves to strengthen the values delineated in Article 15(3) of the Constitution, as elucidated in Paragraph 6 of the aforementioned ruling. Preventing vagrancy and destitution is its fundamental goal to fulfil a

social purpose.

**(D) Section 125 of CrPC, 1973**

Section 125 of the Criminal Procedure Code is a piece of social justice legislation that aims to protect women and children. As stated in Paragraph 6 of the judgment, the purpose of maintenance procedures is not to penalize someone for previous neglect but to prevent vagrancy by compelling those who can help people who cannot sustain themselves and who have a moral claim to provide aid. If a husband with the financial means to support his dependent wife fails or refuses to do so, the court can require him to pay her a monthly maintenance allowance if the wife cannot support herself as per Section 125(1) of the CrPC. The resources and means available to the wife who was abandoned while still living with her husband are what "unable to maintain herself" alludes to. It doesn't imply that the woman has to be completely unable to support herself after being left alone. If the wife's resources are insufficient, she may file a maintenance petition under Section 125 of the Criminal Procedure Code. The criterion being evaluated is whether the wife has the means to sustain her accustomed lifestyle in the absence of her husband.

As per the provisions outlined in Section 125(1), the primary onus is upon the wife to establish the adequacy of her husband's financial means. Firstly, the husband has neglected/refused to maintain the wife because the applicant was living in the house constructed by the appellant in Ratlam in the name of the applicant which the respondent had rented and was living with one of their sons. Another ground due to which the petitioner refused to pay the maintenance was that she had sold the agricultural land and retained the proceeds of the sale. Secondly, the appellant possesses the requisite financial means. Thirdly, the wife was unable to maintain herself in the way she was used to in the place of her husband as per the material records placed before the Court. Since the respondent-wife met the conditions of 125 CrPC, she is entitled to receive maintenance under 125 CrPC. Therefore, the appeal was dismissed.

**(E) Section 483 of CrPC, 1973**

Every High Court shall so exercise its supervision over the Courts of Judicial Magistrates subordinate to it as to guarantee that matters are promptly and properly resolved by such Magistrates, as stipulated by Section 483 of the Criminal Procedure Code. In the present case, the High Court noted that the findings were supported by the evidence presented, and the case was properly resolved. Thus it met the requirements of section 483 of the CrPC.

**(F) Section 488 of CrPC, 1973**

This provision states that if a person has adequate means but yet fails or refuses to provide for

their wife, who is unable to support herself, the magistrate may, upon the presentation of evidence of such neglect, order the person to provide the wife with a monthly allowance. In the current matter, the appellant possessed adequate financial resources but failed to fulfill his obligation to provide financial support to his wife, who was unable to sustain herself. Based on the available material records and presented evidence, the appellant- husband was directed by the Court to provide maintenance to the respondent-wife, thus, the appeal was dismissed.

#### **IV. CONCLUSION**

The court's ruling in this instance, which found in favor of the wife, culmination of a meticulous and thorough evaluation of the parties' respective financial situations. One important issue that contributed to this decision was the wife's financial situation. The wife did not have a reliable monthly income source like the one her husband did in the form of a government pension. The court's decision was undoubtedly influenced by this glaring disparity. The legal framework in India supports the court's judgment to reject the appeal and order the appellant-husband to pay maintenance to the respondent-wife which is a moral as well as legal responsibility. Within this paradigm, the husband must provide financially for his wife, especially if she is unable to do it on her own. The idea is that a husband's duty to provide for his wife's financial security continues even after the marriage has dissolved. The court's decision is indicative of the judicial branch's unwavering dedication to protecting the rights and well-being of all citizens, even those in vulnerable financial situations after marriage. It emphasizes the importance of the duty to provide maintenance in preserving the former spouse's right to a dignified standard of living when the situation calls for it, rather than just as a legal requirement.

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