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## AN ANALYSIS ON MISUSE OF MAINTENANCE RIGHTS BY WOMEN AND ADDRESSING GENDER INEQUALITY IN MAINTENANCE LAWS IN INDIA

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### ABSTRACT

*Women-centric laws in India have been implemented with the noble objective of empowering and protecting women from different types of discrimination, abuse, and injustice. However, there has been raised concern over the years concerning possible misuse of these rules and regulations. A key component in these laws is the Right to Maintenance, which aims to alleviate the harsh circumstances that many women experience. In India, the process of dissolving a marriage may be a highly traumatic ordeal, specifically for women who must negotiate settlement terms and seek maintenance payments for their own well-being and their children. This complicates the already-stigmatized nature of divorce. Maintenance, in this sense, refers to the financial assistance that one spouse is required to offer to the other when the latter is unable to fulfil their recurring expenses. In recent years, there has been an alarming increase in the number of false lawsuits brought by women, usually with malicious purpose, to obtain maintenance. Innocent people, including males and their families, have been falsely implicated, resulting in legal harassment, social humiliation, and financial difficulty. This abstract sheds light on how such misuse can perpetuate gender bias and impede progress toward gender equality in society. By filing false cases, individuals undermine trust in the legal system and divert attention from genuine instances of discrimination and violence against women. This erodes support for women's rights initiatives and makes achieving meaningful change more challenging. Addressing this misuse is crucial for upholding fairness, justice, and gender equality.*

**Keywords:** Maintenance rights, Gender Equality, Discrimination, Injustice, Legal Harassment

### INTRODUCTION

The abuse of laws meant to safeguard women in India is an issue that is highly debated. While it is evident that these laws play an important part in addressing the real issues that women confront and providing them with legal protections, there have been cases when they have been abused. However, it is critical to emphasize that, despite the possibility of misuse, the importance of these laws in protecting women's rights and safeguarding their safety should not be overlooked. The right to maintenance is one of the rights which some women often misuse with malicious intent,

making fraudulent claims or exaggerating their financial needs.

Maintenance laws have been enacted as a form of social justice to offer financial assistance to dependent spouses and children, preventing them from sliding into poverty and homelessness. The wife has the right to demand maintenance from her husband in order to provide for herself and the necessities of her children. The support is meant to cover the wife's living expenses and provide her with a sense of security by reducing financial losses.

Section 125<sup>1</sup> of the Code of Criminal Procedure, 1973, (now referred to as section 144<sup>2</sup> of the Bharatiya Nagarik Suraksha Sanhita, 2023) determines the meaning of maintenance in India, which incorporates different personal laws that offer maintenance rights to the wife. Personal laws governing maintenance in India apply only to individuals belonging to particular religions, although Section 125 of the CrPC (Section 144 of the BNSS) of permits any individual, regardless of religion or caste, to make a maintenance claim

.This section specifies the provision for the maintenance of the wife, child, and parents. Once invoked, the court may order the respondent, often the husband, to pay the wife monthly maintenance if she is unable to support herself financially. However, there are several exceptions to this law. To be obliged to give maintenance to his wife, the husband must have the resources to maintain her after their separation. Furthermore, the woman must not be in adultery or separated from her husband for legitimate reasons. Even if the separation is mutually agreed upon, the wife may not be entitled to maintenance. When deciding in favour of the wife, the court has to ensure that the husband has the necessary means to meet this responsibility. Furthermore, the court must determine that the wife lacks the resources to support herself following the separation.

### NEED AND PURPOSE OF MAINTENANCE

The right to maintenance is a social justice right designed to protect dependents, specifically women, children, and old parents, from starvation, misery, and vagrancy by providing financial support when they are unable to support themselves. The major goal is to support abandoned and impoverished wives, and neglected and abandoned children, therefore fostering social welfare and service.

The goal of providing an unambiguous, quick, and limited remedy was to avoid the difficult and protracted procedure of civil law and litigation. This legislation seeks to compel persons responsible for sustaining dependents who are unable to support themselves to carry out their responsibilities. No wife or her children should be abandoned in society, forced to beg or become victims of crime. Any contract that waives the need to support one's wife and children cannot be deemed legally binding. It recognizes women's unpaid labour and contributions to the household and society, particularly their important role in homemaking. Overall, maintenance for women is more than simply financial help; it is also concerned with preserving their dignity, autonomy, and rights to economic stability and well-being. It is crucial in advancing and encouraging women to fully engage in society, the economy, and political life.

In the case of *Pradeep Kumar vs Smt Bhawna and Anr*<sup>3</sup>, the High Court of Delhi stated that "**To deny maintenance to an estranged wife and child is the worst offence, even from a humanitarian perspective**". The court while dismissing the petition filed by a husband contesting a Trial Court finding, ordered him to pay a cumulative amount of Rs. 20,000 as interim maintenance for his wife and child till the marital dispute was resolved.

The Delhi High Court decision in the case of *Sandeep Walia vs Monika Uppal*<sup>4</sup>, where the husband contested a family court's decision to partially grant his wife's motion under Section 125 of the CrPC and award Rs. 10,000 per month in maintenance, it was determined that parties to matrimonial disputes tend to conceal their true income from the Court to avoid responsibility for maintenance. As a result, the Court may decide maintenance on the parties' status and level of living. Despite the husband's claim that his wife, who was well-qualified and employed, was not entitled to maintenance

<sup>1</sup> The Code of Criminal Procedure, 1974, No. 2, Acts of Parliament, 1974 (India).

<sup>2</sup> The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 122, Acts of Parliament, 2023 (India).

<sup>3</sup> Pradeep Kumar v. Smt Bhawana, 2022 SCC OnLine Del 2082 (India).

<sup>4</sup> Sandeep Walia v. Monika Uppal, 2022 LiveLaw (Del) 677 (India).



because he was unemployed, the Court upheld the maintenance award, emphasizing the importance of providing financial support for dependents regardless of their qualifications or employment situation. The Court stated that ***“It is sacrosanct duty to render the financial support and there is no escape route unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds”***.

In the case of *Vishesh Taneja vs Reeta*<sup>5</sup>, the Delhi High Court held that Maintenance offers significant social advantages by giving financial help to wives, children, and parents who cannot support themselves. The primary goal is to encourage individuals, particularly husbands, to fulfil their moral obligations to society by providing financial assistance to their dependents.

#### **MISUSE OF MAINTENANCE RIGHTS BY SOME WOMEN: INSTANCES OF MISUSE AND GENUINE NEED**

The subject of misuse or abuse of the right to maintenance by certain persons, particularly women, is a difficult and complex matter. It is critical to recognize that, while there may be instances of false claims or exaggerations, generalizing all women or presuming malevolent intent without proof can perpetuate negative stereotypes and undermine many women’s genuine necessities. In India, like in many other countries, the right to maintenance is embodied in different laws and regulations to ensure that persons, notably spouses and children, have access to financial assistance to fulfil their fundamental necessities. This privilege is especially important in circumstances when one spouse, often the wife, has been financially dependent on the other during the marriage.

However, it is apparent that certain individuals, both men and women, have utilized this freedom for personal advantage or malicious purposes. Some women tend to exaggerate their financial demands or make false claims in

order to obtain more money from their spouses, causing unnecessary suffering for the other party and their family. This can have major financial, emotional, and social implications for everyone concerned.

At the same time, it necessary to recognise that many women rely on maintenance to support themselves and their children, particularly in situations of divorce or separation when they may have limited economic capacity or access to resources. These women tend to find themselves in uncertain circumstances as a result of issues such as a lack of education, opportunities for employment, or social standards that limit their economic independence.

Addressing the issue of misuse of the right to maintenance necessitates a balanced strategy that strikes a compromise between protecting persons from false claims and ensuring that those who truly require assistance are not arbitrarily denied access. This can include enacting stricter guidelines for determining maintenance payments, providing support services to individuals to improve their financial literacy and independence, and promoting mediation and alternative dispute resolution mechanisms to help resolve conflicts amicably.

In the case of *Smt. Ritu @ Ridhima & Anr. Vs Sandeep Singh Sangwan*<sup>6</sup>, the Punjab & Haryana High Court held despite being an Assistant Professor with advanced education, the wife skipped to reveal her employment position throughout the proceedings. The court considered the wife’s explanation to be completely false. The court stated that even if her work status was mistakenly excluded from her first petition, she had several opportunities to amend this error during the proceedings. However, she opted not to provide this essential information until her cross-examination disclosed her employment status and income. The court decided that her acts

<sup>5</sup> Vishesh Taneja v. Reeta, 2022 LiveLaw (Del) 679 (India).

<sup>6</sup> Smt. Ritu @ Ridhima & Anr. V. Sandeep Singh Sangwan, 2022 LiveLaw (PH) 44 (India).

were premeditated and planned to obtain maintenance payments, indicating a substantial likelihood of conviction for giving false information.

The Court stated that ***“A petition under Section 125 Cr.PC is filed by a person who is unable to maintain herself or her children on account of lack of sufficient means. Thus it becomes the foremost duty of the party claiming maintenance to disclose to the Court her actual financial status so as to enable the Court to come to a conclusion as to the quantum of maintenance”***.

In the case of ***Anil Jain vs Smt. Sunita***<sup>7</sup>, the wife resided at her matrimonial house for only 12 days. During this period, there were no complaints of harassment by her in-laws, and she did not disclose any mistreatment to her brother, with whom she finally left the marital home. Later, wife filed an application for maintenance alleging that while she stayed in her marital house from 11.05.2008 to 22.05.2008 during that period, her husband and mother-in-law harassed her in such a manner that she was compelled to leave her matrimonial home. Given these conditions, it is unlikely that she was subjected to such severe harassment throughout the 12-day period that she could not continue to live there. The court determined that it could not be inferred that the wife was forcibly expelled from her matrimonial home or that she was unable to stay there due to harassment, and hence the woman's maintenance was rejected. It was evident from the acts of the wife that she filed a false case to seek maintenance from her husband.

#### **CAN AN EARNING WIFE SEEK MAINTENANCE?**

The notion of maintenance may seem in contradiction when used for employed people, as it is generally intended for those who are unable to support themselves financially. However, the reason for paying maintenance to employed women stems from the recognition that money alone does not ensure financial

security or independence. There may be a variety of variables at work, such as poor pay, financial responsibilities, or dependence on others, that hinder an individual from meeting their basic necessities despite working. Furthermore, maintenance is beyond simply meeting vital needs; it also ensures a fair allocation of resources in situations of divorce or separation, where one spouse may have contributed considerably to the home or sacrificed job possibilities for the family's sake. As a result, while it may appear paradoxical at first glance, giving maintenance to employed women recognizes the complicated dynamics of financial dependency and aims to rectify imbalances in resource distribution.

Indeed, wives who earn much more than their husbands may claim support during divorce or separation procedures. In such circumstances, the motives for seeking maintenance could vary. While some people may need financial assistance owing to other situations such as debts, medical expenditures, or child care, others may apply for maintenance in order to get further monetary benefits or gain power in negotiations. It has been witnessed before the courts in different cases where a wife doesn't reveal her actual income and the reason behind the same is to gain additional monetary gains from her husband who could be earning less than her. It is vital to recognize that misuse or abuse of maintenance provisions can occur, and that some people may use the system for personal benefit. This behaviour may result in unfairness, financial stress, and emotional strain for the other individual involved.

Addressing this issue necessitates a balanced strategy that ensures true cases receive adequate assistance while discouraging false claims. This might include rigorous assessment of financial information, amicable dispute resolution through mediation, and legal sanctions for individuals who make fraudulent claims.

<sup>7</sup> Anil v. Sunita, 2016 SCC OnLine MP 6368 (India).

In the case of **Niharika Ghosh vs Shankar Ghosh (2023)**<sup>8</sup>, In this case where the wife filed an appeal against the dismissal of her maintenance claim under Section 24<sup>9</sup> of the Hindu Marriage Act, 1955, the Division Bench, supported the lower court's decision. The Delhi court found that the wife was well qualified and had earning capacity, but she failed to reveal her income accurately. As a result, the court determined that someone with such earning potential cannot be entitled to maintenance and financial assistance. As a result, the appeal was rejected for lack of merit. The court noted that the woman, who had a Ph.D. in Management and professional expertise in computers, was more qualified than her husband, who was a basic graduate. The court agreed with the Family Court's finding that the wife first refused to reveal her employment position, despite her high qualifications. Furthermore, the court considered it unnatural that someone with such high education would be unemployed, and even less likely that she would work for charity. This supported the court's opinion to dismiss the wife's maintenance application.

In the case of **Mamta Jaiswal vs Rajesh Jaiswal**<sup>10</sup>, the court held that the court emphasized that Section 24 of the Hindu Marriage Act aimed at providing financial aid to spouses who legitimately required it irrespective of how hard they tried to maintain themselves. However, the law did not intend for those involved in legal disputes to remain inactive only for the purpose of obtaining money from the opposing side. The court observed that Section 24 was not intended to establish a group of people who relied only on their spouses for financial assistance and made no attempt to maintain themselves.

Indeed, courts have found that wives, even if they earn money, can seek support from their husbands. These decisions often depend on a variety of aspects, including the income

disparity between the spouses, the standard of living throughout the marriage, and the financial necessities of the woman and any children involved. Courts may rely on the wife's income as a single factor in deciding the amount of maintenance granted. Even if the woman earns her own money, she may still need financial support to maintain the ideal standard of living set before the marriage or to cover new expenses such as childcare or medical expenses.

Furthermore, the courts recognize that marriage is a partnership in which both spouses have a responsibility to assist one another, particularly in circumstances where one spouse has sacrificed career prospects or financial independence for the sake of the family. Finally, each case is assessed based on its circumstances, and the courts seek justice and equality when making maintenance awards, taking into account the financial situations and requirements of both parties concerned.

In the case of **Chaturbhuj vs Sitabai (2007)**<sup>11</sup>, It was determined that a wife can still seek alimony even if she is capable of earning an income. The Supreme Court determined that a woman who is separated from her husband can receive maintenance from him even if her monthly salary is insufficient to maintain herself. The court further clarified that the phrase "unable to maintain herself" does not imply that a woman must be absolutely destitute before applying for maintenance.

Similarly, In the case of **Jaspreet Singh vs Swaneet Kukreja (2021)**<sup>12</sup>, the Delhi High Court court determined that a wife's right to interim maintenance cannot be rejected merely because of her ability to earn as a working professional. Even if the woman proved her earning capacity, the lower court adequately recognized that this is insufficient to justify withholding interim maintenance. Therefore, the order to pay Rs. 1,25,000/- per month as interim maintenance, with Rs. 62,500/- assigned to

<sup>8</sup> Niharika Ghosh v. Shankar Ghosh, 2023 SCC OnLine Del 5624 (India).

<sup>9</sup> The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).

<sup>10</sup> Mamta Jaiswal v. Rajesh Jaiswal, 2000 SCC OnLine MP 580 (India).

<sup>11</sup> Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 (India).

<sup>12</sup> Jaspreet Singh v. Swaneet Kukreja, LAWS(DL.H)-2022-2-215 (India).



both the wife and the young child, is determined to be acceptable given the husband's income. As a result, the court found insufficient merit in either the wife's or husband's challenges to the order and declined to interfere in the contested judgment.

In the legal framework, while assessing maintenance, it becomes essential to create precise standards to distinguish genuine necessity from potential misuse. These criteria serve as guiding factors for the court's equitable determinations and decisions. To begin, all parties must furnish accurate and complete financial disclosures, including income, assets, obligations, and expenses. This transparency and disclosure enables informed choices and decisions on the right amount of maintenance. Second, evaluate the standard of living experienced throughout the marriage, to maintain a comparable lifestyle after separation, especially if one spouse lacks the resources to do so independently. Third, an evaluation of employability and earning potential is required, taking into account educational background, skill set, work experience, and employment prospects in the local market. This assessment determines if the beneficiary spouse is capable of self-sufficiency but stays unemployed or underemployed. Furthermore, if children are involved, financial duties for childcare, such as educational and healthcare costs, must be considered.

The length of the marriage is important since longer unions may justify greater maintenance payments, especially if one spouse has relied on the other financially for a long time. Both spouses' contributions to the household, such as housework or career help, should be included. Furthermore, the conduct of both spouses during and after the marriage must be assessed, especially if one spouse or wife participates in manipulative behaviour about maintenance. Finally, conducting periodic assessments of maintenance orders promotes continued justice by revising awards to reflect changes in financial circumstances over time. These principles jointly safeguard against the

exploitation and misuse of maintenance laws while encouraging justice in court procedures.

### GENDER NEUTRAL APPROACH

A progressive concept known as "gender neutrality" proposes the eradication of gender-based prejudices and stereotypes from language, identity, institutions, and social roles. It opposes the notion that opportunities and actions should be determined by a person's gender and seeks to establish a society in which people are free to express themselves without being constrained by social conventions. Gender neutrality aims to reduce discrimination and make the world more just and equitable for people of all genders by fostering inclusivity and equality.

A vital component of social justice, maintenance is not only providing financial assistance; rather, it is a basic obligation that people have to their dependents, including parents, children, and spouses who are unable to support themselves. The legal concept, which is which finds its codification in the Criminal law and is amended both Parliament, signifies the dedication to maintaining the values of social and economic well-being as articulated in the Directive Principles of State Policy. The state has an obligation to improve the social and economic conditions of society in accordance with these principles and ideals. Originating from the right to live with dignity guaranteed by Article 21<sup>13</sup>, the right to maintenance encompasses substantially more than solely financial support. It acts as the foundation for preserving the overall well-being and dignity of individuals as well as society as a whole.

Moreover, the harmonious interpretation of fundamental rights with Directive Principles of State Policy, which enables the state to enforce its responsibilities, makes the right to maintenance an implicit fundamental right under Article 21. This indicates that since the state is now obligated to maintain socioeconomic welfare, people have the right to

<sup>13</sup> INDIA CONST. art. 21.



initiate legal action in circumstances of non-compliance. Therefore, the right to maintenance functions as both a legally enforceable entitlement and a moral imperative, upholding the state's obligation to maintain social fairness and economic prosperity in society.

The lack of specific provisions for husbands seeking maintenance from their wives within the context of criminal law emphasizes a significant legal recognition gap. Although husbands may be addressed in personal laws concerning maintenance, deeply ingrained assumptions in society are typically associated with maintenance claims exclusively to wives. The societal norms and historical gender roles that have historically positioned men as providers and women as dependents are the root cause of this association. As a result, the prevailing and dominant narrative often disregards the possibility that husbands may encounter situations where they require financial assistance

It is essential to emphasize, therefore, that this recognition of husbands' potential maintenance requirements should not aim to minimize or diminish women's rights to seek maintenance. Financial Assistance may be necessary for women due to a variety of issues they experience, and they have an unwavering right to such support. Instead, it is to address the present imbalance and maintain the values of gender equality in the domain of law.

By addressing this oversight and acknowledging the possible circumstances in which the husband may require maintenance, the legal system should aim to encourage a more fair allocation of support services. This acknowledgment is crucial for assuring that every individual, regardless of gender, has access to the resources and support they need in times of financial strain or other situations requiring maintenance. By doing this, the legal system aims to preserve the values of justice, fairness, and equality for every member of society. Ultimately, the legal system takes an

important move toward promoting a more inclusive and just society by acknowledging and giving consideration to the maintenance necessities of both husbands and wives.

### **CONCLUSION**

In conclusion, while laws aimed to safeguard and strengthen women in India, most particularly those dealing with maintenance rights, have become vital in combating discrimination and injustice, there are cases of abuse that must be addressed. While many women have a legitimate need for maintenance, it is critical to recognize and prevent false claims that might propagate negative stereotypes and deteriorate the confidence of the legal system. Strategies for addressing this issue should focus on providing fair and equitable access to maintenance while discouraging misuse of the system. Furthermore, a gender-neutral approach that acknowledges both husbands' and wives' maintenance needs is crucial for sustaining societal justice and equality values. Overall, balancing the need to protect legitimate claimants with preventing abuse is essential for maintaining justice, fairness, and gender equality within India's legal system.