

BHUWAN MOHAN SINGH VS MEENA, (2015) 6 SCC 353

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BEST CITATION – PRIYANSHI MISHRA, BHUWAN MOHAN SINGH VS MEENA, (2015) 6 SCC 353, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (9) OF 2026, PG. 924-927, APIS – 3920 – 0001 & ISSN – 2583-2344.

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FACTS OF THE CASE-

The husband is appealing the Family Court ruling that awarded the wife and kid monthly support under Section 7 of the Family Courts Act, 1984.

On August 24, 2002, the wife submitted a support request, stating that the husband had abandoned her and their son, who was still a juvenile and had married another lady. The husband refuted the accusations and stated that he had legally divorced the wife in 1998 by issuing a talaq and had since provided for her mehr and maintenance following Islamic law. The Family Court ruled that the husband had failed to establish the legitimacy of the divorce and that, following Section 125 of the Code of Criminal Procedure, 1973, he was required to pay maintenance to the wife and son.

From the date of the order, or August 24, 2011, the Family Court granted the wife Rs. 3000 per month and the kid Rs. 2000 per month. The husband appealed the Family Court's decision to the Supreme Court because it had legal and factual errors, had been unfairly delayed, and had granted too many adjournments.

Issues

1. Whether the Family Court should allow adjournments in an extremely liberal manner when deciding an application for maintenance under Section 7 of the Family Courts Act, 1984
2. Whether the delay in adjudication by the Family Court is against human rights and the basic embodiment of the dignity of an individual.

ARGUMENTS BY THE PETITIONER-

According to Section 7 of the Family Courts Act of 1984, which also incorporates Section 125 of the Code of Criminal Procedure, 1973, the plaintiff applied for maintenance. According to the plaintiff, the defendant (husband) left them and got married to another lady without getting a divorce from the first wife. According to the legislation, the parties' status and stratum, and the plaintiff's claim, the defendant owed the plaintiff support.

The plaintiff further said that the defendant had the resources and income necessary to support them.

The plaintiff requested support beginning on August 24, 2002, in the amounts of Rs. 5000 per month for the wife and Rs. 3000 per month for the son.

ARGUMENTS OF THE RESPONDENT-

Meena, the first respondent, and Rohit, the second respondent, were both raised by the defendant, Bhuwan Mohan Singh. He appealed the Family Court's decision to award Meena and Rohit monthly maintenance payments of Rs. 10,000 and Rs. 5,000, respectively, effective as of the order's date of 24 August 2011.

The defendant claimed that by signing a document of divorce and giving Meena Rs. 3,75,000 as permanent alimony on February 14, 1997, he had already divorced her. Additionally, he said that Rohit, his unmarried son who was

not his biological child, was not related to him. The defendant said that he had several medical conditions and no source of income. He said he was unable to support the respondents and was living at the mercy of his friends and family. The defendant further contested the Family Court's authority to consider the respondents' motion submitted following Section 7 of the Family Courts Act, 1984. He argued that because the application was submitted more than 12 years after the divorce, it was time-barred. Additionally, he claimed that the respondents had filed a fraudulent and baseless application and had withheld important information to harass him.

JUDGEMENT

The two main issues in this appeal by special leave are whether the Family Court should allow extremely liberal adjournments while deciding an application under Section 7 of the Family Court Act, 1984 (for convenience, "the Act"), which includes determining the grant of maintenance to the persons as entitled under that provision, while also keeping the windows of wisdom closed and the sense of justice at bay. After losing the support of the husband who has failed to maintain the marital status, the wife is denied maintenance for almost nine years because that much time is needed to decide the law and, in addition, to restrict the grant of maintenance. This is despite the obvious perceptibility of vagrancy, destitution, impecuniosity, struggle for survival, and emotional fracture, a wife is likely to face under these circumstances, and further exhibiting absolute insensitivity to her condition. Both strategies, in our opinion, fail to carry out the will of the legislative, as well as the hopes of the wife and children who lack a sufficient source of support and whose dreams wither away like mushrooms, maybe joining the marathon race of extinction. The Family Court's prolonged decision-making process violates not only human rights but also the fundamental idea of an individual's dignity.

The facts now lie inside a very narrow scope. According to Hindu customs and rituals, the

appellant and the husband were married on November 27, 1997, and on December 16, 1998, a boy was born into the union. The respondent filed a Section 125 of the Code case in the Family Court in Jaipur, Rajasthan on August 28, 2002, requesting Rs. 6000 per month in maintenance after being forced to leave the marital residence due to specific circumstances.

In Vimla (K.) v. Veeraswamy (K.), a three-judge bench made the following observation on the fundamental goal of Section 125 of the Code: "Section 125 of the Code is meant to achieve a social purpose." The goal is to stop begging and homelessness. It offers a prompt solution for the forsaken wife's need for food, clothes, and shelter.

The dominant and primary goal of the provision in Section 125 of the Code is to provide social justice to women, children, infirm parents, etc., and to prevent destitution and vagrancy by requiring those who can support those who are unable to support themselves but have a moral claim to support. This must be kept in mind when discussing the ambit and scope of the provision.

"The Family Courts Act was enacted to provide for the establishment of Family Courts to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs, and for matters connected therewith." This point is being made to draw attention to the fact that, in the matter at hand, the Family Court action was handled without regard for the Act's goals and motivations, as well as the letter of its provisions under Section 125 of the Code.

Unfortunately, the Family Court heard the matter for nine years. The Family Courts have been routinely granted adjournments on occasion, which has resulted in suffering for both parties or, on occasion, the wife is the worse victim, as the Court has come to learn. When this happens, the goal of the legislation completely deteriorates.

Therefore, we conclude that a Magistrate must record the grounds for granting or refusing to give maintenance to spouses, children, or

parents when evaluating an application under Section 125 of the Code. Such maintenance may be granted beginning with the date of the order or, if so ordered, beginning with the date of the maintenance application, as applicable. Express order is required for maintenance payments to begin as of the application date. However, the court is not obligated to record any unique justifications. Without an express provision to that effect, in our opinion, no such obligation can be read into Section 125, subsection (1) of the Code.

The High Court did not violate any legal rules. As a result, we agree with the High Court's decision. However, we order that he be permitted to pay the arrears together with the current maintenance award in stages, as requested by the respondent's skilled counsel. The appellant's knowledgeable attorney offered no objections to such a plan of action. Due to the aforementioned, we order that the arrears be paid in a proportionate when determining a maintenance application under Section 7 of the Family Court Act, 1984, which involves deciding whether to provide maintenance to the individuals as entitled under that provision, the Family Court shouldn't give adjournments in an excessively permissive manner.

CRITICAL ANALYSIS:

The case involves the question of a wife's and children's maintenance under Section 125 of the Code of Criminal Procedure, 1973, which offers a quick and straightforward remedy for those who are unable to support themselves and are being neglected by their relatives who have the resources to do so.

The respondent, Meena, and the appellant, Bhuwan Mohan Singh, were married in 1988 and had two children together. In 1994, he abandoned them and stopped providing any upkeep. Meena applied for maintenance through the Family Court in 1995 following Section 125 of the Code, and it was approved in 2004. The Family Court awarded her support of Rs. 3000 per month beginning on the date of the order and Rs. 2000 per month beginning on the

birthdate of each kid. The High Court rejected the appellant's 2012 appeal after he disputed the Family Court's ruling there. On extraordinary leave, he then sought the Supreme Court in 2013.

The Supreme Court criticized the Family Court for failing to provide the wife and children with a prompt and efficient remedy by waiting nine years to consider the claim for maintenance. The Supreme Court ruled that the Family Court's prolonged decision-making process violated not only human rights but also the fundamental tenant of human dignity. The Supreme Court emphasized that Section 125 of the Code was designed to lessen the pain, suffering, and financial hardship of a woman who left her matrimonial home for the reasons specified in the provision so that the Court could make some suitable arrangements and she could support herself as well as her children if they were with her. The Supreme Court ruled that the idea of sustenance does not always include living like an animal, feeling like an unperson who should be cast aside from society, and having to scavenge for her fundamental needs elsewhere. The Supreme Court ruled that when determining the amount of maintenance, the Family Court should take into account various factors, including the status of the parties, their respective needs, the husband's ability to pay (taking into account his reasonable expenses for his maintenance, those he is required to pay under law, and statutory but involuntary payments or deductions), amount should be such as to enable her to live with dignity as she would have lived in her marriage, The Supreme Court said that without an order from a court with appropriate jurisdiction, there is no way to avoid payment. According to the Supreme Court's directive, all Section 125 of the Code petitions must henceforth, in most cases, be resolved within six months of the respondent's receipt of notice. The Supreme Court further ordered that when a competent court has ordered interim maintenance but the defendant does not pay it, recovery shall be attempted by the use of legally acceptable coercive methods. The Supreme Court additionally ordered that if

there is any delay in the monthly or lump sum payment of maintenance or if arrears are owed, a competent court shall grant interest at a fair rate.

REASONING

The Supreme Court ruled that when determining an application under Section 7 of the Family Courts Act, 1984, which involves the determination of award of maintenance to the individuals as entitled under that provision, the Family Court should not allow adjournments in an unusually permissive way. The Supreme Court stated that it violates both human rights and the fundamental tenets of an individual's dignity when the Family Court takes too long to make a decision. In addition, the Supreme Court ruled that the Family Court Judge must be cognizant of the emotional splintering that occurs in family conflicts and must forbid the use of dilatory strategies by any side.

According to the Supreme Court, Section 125 of the Code of Criminal Procedure, 1973, was designed to lessen the pain, suffering, and financial hardship of a woman who left her matrimonial home for the reasons specified in the provision so that the Court could make some suitable arrangements and she could support herself as well as her children if they were with her. The Supreme Court emphasized that the idea of sustenance does not always entail living like an animal, feeling like an unperson who should be cast out of grace, or having to scavenge for her fundamental needs elsewhere. According to the law, she has the right to live her life as much as she would have in her husband's home. The Supreme Court further declared that regardless of whether he has divorced her, remarried, or has a second wife living with him, a husband who is healthy, physically fit, and in a position to support himself is legally required to support his wife, who has no income or insufficient income. The Supreme Court stated that it is a healthy norm that must be followed regardless of whether the husband has or has not divorced his wife using a customary method outside of the legal system.

CONCLUSION

The Family Court was also criticized by the Supreme Court for giving unusually lenient adjournments and delaying the resolution of the case for over nine years. The Supreme Court noted that such a delay violated both human rights and the fundamental idea of an individual's dignity. Additionally, the Supreme Court stated that the Family Court Judge must be mindful of the emotional splintering that occurs in family conflicts and must not permit dilatory techniques by any party. The Supreme Court ordered the spouse to gradually pay the support arrears that were granted. To reach its decision, the Supreme Court looked to some legal precedents and legislative requirements. The Family Court has the authority to make decisions on maintenance under Section 7 of the Family Courts Act of 1984, which was cited by the Supreme Court. The Code of Criminal Procedure, 1973's Section 125, which allows for the maintenance of spouses, kids, and parents who are unable to support themselves, was also cited by the Supreme Court. To explain its rationale, the Supreme Court cited several decisions, including *Shamima Farooqui v. Shahid Khan*¹, *Chaturbhuj v. Sita Bai*², *Savitaben Somabhai Bhatiya v. State of Gujarat*, *Badshah v. Urmila Badshah Godse*⁴, and *Rohtash Singh v. Ramendri*.

The case is noteworthy because it reinforces a woman's right to maintain a relationship with her spouse even after he has legally divorced her or remarried. The case also emphasizes the need for the Family Court to conclude maintenance matters quickly and the necessity to prevent pointless adjournments. The case also demonstrates judicial sensitivity to the suffering of women who are denied an appropriate standard of living and human decency by spouses who breach their marital duties.