PAPER PRESENTATION ON THE TOPIC OF MAINTENANCE UNDER VARIOUS LAWS

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Introduction. The objective to enforce the social duty to prevent Vagrancy and Destitution, leading to crimes. Maintenance granted irrespective of personal laws. It is a tentative remedy, the proceedings being summary. An economic umbrella to the weaker, having no sufficient means to maintain themselves.

As per Oxford dictionary the general meaning of the word maintenance is keeping the things in good condition by checking or repairing it regularly.

Sec.3 of Hindu Adoption and maintenance Act: defines, maintenance includes

1) In all cases provisions for food clothing, residents, education and medical attendance and treatment

2) In case of an unmarried daughter, also a reasonable expenses of and incident to her marriage

Obligation of a husband to maintain his wife, arises out of the status of the marriage. Right to maintenance forms a part of the personal law. Under the code of Criminal procedure. Right of maintenance extends not only to the wife and dependent children, but also to indigent parents and divorced wife, Claim of the wife etc. however depends on the husband having sufficient means. Inclusion of the right of maintenance under the code of criminal procedure as the great advantage of making the remedy both speedy and cheap, however divorced wife's who have received money payable under the customary personal law are not entitled to maintenance claims under the code of Criminal procedure.

* There are two types of maintenances:-
1. Interim maintenance or maintenance pendent lite
2. Permanent maintenance
The interim maintenance is payable from the date of presentation of the petition till the date of dismissal of the suit or passing of the decree.

Permanent maintenance on the other hand, is the maintenance that is paid by one spouse other after judicial proceedings have resulted in either the dissolution of the marriage or judicial separation. Under section 125 to 128 criminal procedure code provide for speedy, effective and inexpensive remedy against persons, who neglect or refused to maintain their Dependant wife’s, children’s and parents. These provisions are in a way, aimed at preventing starvation and vagrancy leading to the commission of crime.

MAINTENANCE UNDER CODE OF CRIMINAL PROCEDURE

According to section 125 (1) Cr.P.C the following persons are entitled to claim maintenance. i) wife:- the wife who is unable to maintain herself is entitled to claim maintenance, she may be of any age, minor or major. The term wife includes a woman who has been divorced by or has obtained divorce her husband and has not remarried. It has been obtained that since the Muslim woman (Protection of rights on divorce Act) 1973, does not contain any provision excluding application of the Family Courts Act, a claim maintenance even by a divorced Muslim woman under chapter-ix of the Cr.P.C., shall be made to the Family Court. Which was held in "ALLABUKSH KARIM SHAIK vs NOORIAHAN ALLABUKSH SHAIK,1994 CR.LI 2826, (BOMBAY HIGH COURT). According to the Hon’ble Supreme court a divorced Muslim wife whose relatives are in capable of maintaining her as required under personal law can striate away apply to the state wakf board for maintenance. In case of divorced wife the divorce may be at any time and it has been held that a woman divorced before April, 1974 (this is the date of coming into force of this code) could claim maintenance. Provided the other necessary conditions are satisfied. Which was held in maintenance K.Raja Khan Vs MUNTAZ KHATON 1976 CRI.LI. 905, ii) Child:- a) A minor child if unable to maintain itself is entitled to claim maintenance. It is in material whether such a child is legitimate or illegitimate or whether married or unmarried. b) Even, after attaining majority a legitimate or illegitimate child is entitled to claim maintenance if by reason of any physical or mental abnormality or injury it is
unable to maintain itself. However, a married daughter is not entitled to maintenance under section 125 Cr.P.C. Father or Mother:- A father or mother unable to maintain himself or herself is entitled to claim maintenance from his or her son. 125(1)Cr.P.C does not specifically speak about the liability of a daughter to maintain the parents. The gave raise to conflict of opinion among the High Courts on the question of liable of the daughter. It has been resolved by the Hon'ble Supreme Court holding that the daughter whether married or unmarried would also be liable to maintain the parents. The Court pointed out that apart from any Law, Indian society casts a duty on the children to maintain their parents and this social obligations equally applies to a daughter which was held in **VZIYA MANOHAR ARABAT vs KASHIRAO RAJARAM SAWAI 1987, SCC 278.** persons from whom maintenance can be claimed:- Under section 125(1) of Cr.P.C requires only a husband or a father or a son or a daughter as the case may be, to pay maintenance to the respective persons, namely wife, child, father or mother under certain circumstances. Section 125 Cr.P.C. does not contemplate the mother to pay maintenance to father or son and daughter as case may be which was held in "**RAIAKUMARI vs YASHODA DEVI 1978 CRI.I.J 600**". Essential conditions for granting maintenance:- i) sufficient means to maintain:- According to section 125(1) of Cr.P.C the person from whom maintenance is claimed must have sufficient means to maintain the person or persons claiming the maintenance. The 'means' contemplated are not confined only to visible means such as, lands and other property or employment. If a person is healthy and able bodied, he must be held to have the means to support his wife. Wife, children and parents which was held in "**BASANT KUMARI MOHANTY vs SURAT KUMAR MOHANTHY 1982 CRI.I.J. 485.** ii) Neglect or refuse to maintain:- the person from whom maintenance is claimed must have neglected or refused to maintain the person or persons entitled to claim maintenance. Neglect or refusal to maintain may be by words or by conduct. It may be express or implied held in BHIKAJI vs MANECKJI (1907) SCR.I.L. J 334. The terms 'maintenance' means proper maintenance and it should not be narrowly interpreted. iii) person claiming maintenance must be unable to maintain himself or herself:- Under section 125(1)(a) Cr.p.C.
maintenance allowance can not be granted to every wife who is neglected by her husband or whose husband refuses to maintain her, but can be granted only if the wife is unable to maintain herself held in **MANMOHAN SINGH vs MAHINDRA KAUR 1976 CRIL. J 1664. MAINTENANCE ORDER**:- The limitation of Rs. 500/- in the whole of the monthly rate of maintenance is removed and the quantum of maintenance is left to be decided by the Magistrate by the Code of Criminal procedure (Amendment) Act, 2001 which has also prescribed a time frame for disposal of claims for maintenance. The fixing of the rate of allowance is to be done on the merits of each case and the separate income and the means of the person claiming maintenance are relevant circumstances to be taken into account for this purpose. In a case where the wife is claiming maintenance from her husband, the Magistrate has to find out as to what is required by the wife to maintain a standard of living which is neither luxurious nor penurious, but is modestly consist with the status of the family. The needs and requirements of the wife for such moderate living can be fairly determined which was held in **BHAGWAN DUTT vs KAMLA DEVI , (1975) 2 SCC 386.** sec.126Crpc deals the procedure u/sec.125Crpc maybe taken against any person and in any district, a) where he is, or b) where he is or his wife resides or c) where he last resided with his wife or as the case may be with the mother of illegitimate child. Sec.127Crpc alteration of allowance. 1) on proof of change in the circumstance of any person , receiving , u/sec.125Crpc a monthly maintenance for the maintenance or interim maintenance , or ordered under the same section to pay monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother as the case may be the Magistrate may make such alteration as he may things fit in the allowance for the maintenance or the interim maintenance as the case may be. **Sec.128Crpc:- enforcement of order of maintenance**:- A copy of the order of the maintenance and expenses of proceedings as the case may be shall be given without payment to the person in whose favour it is made, or to his guardian , if any, or to the person to whom the allowance for the maintenance or the allowance for the interim maintenance and expenses of proceedings as the case may be to be paid , and such ordered may
be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to identity of the parties and non-payment of the allowance, or as the case may be, expenses due.

**Hindu Law:**

Hindu Law, the wife has an absolute right to claim maintenance from her husband. But she loses her right if she deviates from the path of chastity. Her right to maintenance is codified in the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956). In assessing the amount of maintenance, the court takes into account various factors like position and liabilities of the husband. It also judges whether the wife is justified in living apart from husband. Justifiable reasons are spelt out in the Act. Maintenance pendente lite (pending the suit) and even expenses of a matrimonial suit will be borne by either, husband or wife, if the either spouse has no independent income for his or her support. The same principle will govern payment of permanent maintenance. Under the Muslim Law, the Muslim Women (Protection of Rights on Divorce) Act, 1986 protects rights of Muslim women who have been divorced by or have obtained divorce from their husband and provides for matters connected therewith or incidental thereto.

Sec.24 of Hindu Marriage Act: provides maintenance pendente lite and expenses of proceedings:

Where in any proceeding under this Act it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable. (Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.)
This Act inter alia provides that a divorced Muslim woman shall be entitled to (a) reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband; (b) where she herself maintains children born to her before or after her divorce, a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children; (c) an amount equal to the sum of mehar or dower agreed to be paid to her at the time of her marriage or at any time thereafter according to the Muslim Law and: (d) Il property given to her before or at the time of marriage or after her marriage by her relatives or friends or by husband or any relatives of the husband or his friends. In addition, the Act also provides that where a divorced Muslim woman is unable to maintain herself after the period of iddat the magistrate shall order directing such of her relatives as would be entitled to inherit her property on her death according to the Muslim Law, and to pay such reasonable and fair maintenance to her as he may determine fit and proper, having regard to the needs of the divorced woman, standard of life enjoyed by her during her marriage and means of such relatives, and such maintenance shall be payable by such relatives in proportion to the size of their inheritance of her property and at such periods as he may specify in his order.

Where such divorced woman has children, the Magistrate shall order only such children to pay maintenance to her, and in the event of any such children being unable to pay such maintenance, the magistrate shall order parents of such divorced woman to pay maintenance to her. In the absence of such relatives or where such relatives are not in a position to maintain her, the magistrate may direct State Wakf Board established under Section 13 of the Wakf Act, 1995 functioning in the area in which the woman resides, to pay such maintenance as determined by him.

The Parsi Marriage and Divorce Act, 1936 :- recognizes the right of wife to maintenance—both alimony pendente lite and permanent alimony. The maximum amount that can be decreed by court as alimony during the time a
matrimonial suit is pending in court is one-fifth of the husband's net income. In fixing the quantum as permanent maintenance, the court will determine what is just, bearing in mind the ability of husband to pay, wife's own assets and conduct of the parties. The order will remain in force as long as wife remains chaste and unmarried.

**The Indian Divorce Act, 1869:** interalia governs maintenance rights of a Christian wife. The provisions are the same as those under the Parsi law and the same considerations are applied in granting maintenance, both alimony pendente lite and permanent maintenance.

Maintenance under Hindu law: Maintenance is a right to get necessities which are reasonable from another. It has been held in various cases that maintenance includes not only food, clothes and residence, but also the things necessary for the comfort and status in which the person entitled is reasonably expected to live. Right to maintenance is not a transferable right. Maintenance without divorce.

**The Hindu Adoptions and Maintenance Act, 1956:** Sec. 18 to 28. Maintenance, in other words, is right to livelihood when one is incapable of sustaining oneself. Hindu law, one of the most ancient systems of law, recognizes right of any dependent person including wife, children, aged parents and widowed daughter or daughter in law to maintenance. The Hindu Adoptions and Maintenance Act, 1956, provides for this right. Maintenance as main relief: for wife:- The relief of maintenance is considered an ancillary relief and is available only upon filing for the main relief like divorce, restitution of conjugal rights or judicial separation etc. Further, under matrimonial laws if the husband is ready to cohabit with the wife, generally, the claim of wife is defeated. However, the right of a married woman to reside separately and claim maintenance, even if she is not seeking divorce or any other major matrimonial relief has been recognized in Hindu law alone. A Hindu wife is entitled to reside separately from her husband without forfeiting her right of maintenance under the Hindu adoptions and Maintenance Act, 1956. The Act envisages certain situations in which it may become impossible for a wife to continue to reside and cohabit with the husband.
but she may not want to break the matrimonial tie for various reasons ranging from growing children to social stigma. Thus, in order to realize her claim, the Hindu wife must prove that one of the situations (in legal parlance 'grounds') as stated in the Act, exists. Grounds for award of maintenance. Only upon proving that at least one of the grounds mentioned under the Act, exists in the favor of the wife, maintenance is granted. These grounds are as follows:

a). The husband has deserted her or has willfully neglected her b). The husband has treated her with cruelty c). The husband is suffering from virulent form of leprosy/venereal diseases or any other infectious disease. d). The husband has any other wife living e). The husband keeps the concubine in the same house as the wife resides or he habitually resides with the concubine elsewhere. f). The husband has ceased to a Hindu by conversion to any other religion g). Any other cause justifying her separate living bar to relief. Even if one of these grounds exists in favour of the wife, she will not be entitled to relief if she has indulged in adulterous relationship or has converted herself into any other religion thereby ceasing to be a Hindu. It is also important to note here that in order to be entitled for the relief, the marriage must be a valid marriage. In other words, if the marriage is illegal then the matrimonial relationship between the husband and wife is non-existent and therefore no right of maintenance accrues to wife. However, thanks to judicial activism, in particular cases the presumption of marriage is given more weightage and the bars to maintenance are removed.

Other dependents who can claim maintenance:- Apart from the relationship of husband and wife other relations in which there is economic dependency are also considered to be entitled to maintenance by the Hindu Adoptions and Maintenance Act, 1956. Accordingly a widowed daughter-in-law is entitled maintenance from her father-in-law to the extent of the share of her diseased husband in the said property. The minor children of a Hindu, whether legitimate or illegitimate, are entitled to claim maintenance from their parents. Similarly, the aged and infirm parents of a Hindu are entitled to claim maintenance from their children. The term parent here also includes an issue less stepmother.

Maintenance Under Muslim Law:- Under the "Women (Protection Of-
Rights On Divorce) Act 1986:- spells out objective of the Act as "the protection of the rights of Muslim women who have been divorced by, or have obtained divorce from, their husbands." The Act makes provision for matters connected therewith or incidental thereto. It is apparent that the Act nowhere stipulates that any of the rights available to the Muslim women at the time of the enactment of the Act, has been abrogated, taken way or abridged. The Act lays down under various sections that distinctively lay out the criterion for women to be granted maintenance. Section (a) of the said Act says that divorced woman is entitled to have a reasonable and fair provision and maintenance from her former husband, and the husband must do so within the period of idda and his obligation is not confined to the period of idda. It further provides that a woman, if not granted maintenance can approach the Wakf board for grant as under section (b) which states that if she fails to get maintenance from her husband, she can claim it from relatives failing which, from the Wakf Board. An application of divorced wife under Section 3(2) can be disposed of under the provisions of Sections 125 to 128, Cr. P.C. if the parties so desire. There is no provision in the Act which nullifies orders passed under section 125, Cr. P.C. The Act also does not take away any vested right of the Muslim woman.

All obligations of maintenance however end with her remarriage and no claims for maintenance can be entertained afterwards. The Act thus secures to a divorced Muslim woman sufficient means of livelihood so that she is not thrown on the street without a roof over her head and without any means of sustaining herself. Protection to Divorced Women Sub-section (1) of Section 3 lays down that a divorced Muslim woman is entitled to:- (a) a reasonable and fair provision and maintenance to be made and paid to her within the iddah period by her former husband. (b) where she herself maintains the children born to her before or after the divorce.

Maintenance Under Christian Law:-

A Christian woman can claim maintenance from her spouse through criminal proceeding or/and civil proceeding. Interested parties may pursue both criminal and civil proceedings, simultaneously, as there is no legal bar to it. In
criminal proceedings, the religion of the parties does not matter at all, unlike in
civil proceedings. If a divorced Christian wife cannot support her in the post
divorce period she need not worry as a remedy is in store for her in law. Under
S.37 of the Indian Divorce Act, 1869, she can apply for alimony/maintenance in a
civil court or High Court and, husband will be liable to pay her alimony such sum,
as the court may order, till her lifetime. The Indian Divorce Act, 1869 which is only
applicable to those persons who practice the Christianity religion inter alia
governs maintenance rights of a Christian wife. The provisions are the same as
those under the Parsi law and the same considerations are applied in granting
maintenance, both alimony pendente lite and permanent maintenance. The
provisions of THE INDIAN DIVORCE ACT,1869 are produced herein covered under
part IX -s.36-s.38. IX-Alimony:- 5.36. Alimony pendente lite:- In any suit under this
Act, whether it be instituted by a husband or a wife, and whether or not she has
obtained an order of protection the wife may present a petition for alimony
pending the suit. Such petition shall be served on the husband and the Court, on
being satisfied of the truth of the statements therein contained, may make such
order on the husband for payment to the wife of alimony pending the suit as it
may deem just. Provided that alimony pending the suit shall in no case exceed
one fifth of the husband's average net income for the three years next preceding
the date of the order, and shall continue, in case of a decree for dissolution of
marriage or of nullity of marriage, until the decree is made absolute or is
confirmed, as the case may be. S. 37. Power to order permanent alimony :- The
High Court may, if it thinks fit, on any decree absolute declaring a marriage to be
dissolved, or on any decree of judicial separation obtained by the wife, and the
District judge may, if he thinks fit, on the confirmation of any decree of his
declaring a marriage to be dissolved, or on any decree of judicial separation
obtained by the wife order that the husband shall, to the satisfaction of the Court,
secure to the wife such gross sum of money, or such annual sum of money for any
term not exceeding her own life, as, having regard to her fortune (if any), to the
ability of the husband, and to the conduct of the parties, it thinks reasonable; and
for that purpose may cause a proper instrument to be executed by all necessary
parties. Power to order monthly or weekly payments: - In every such case, the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable. Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part as to the Court seems fit. Sec. 38. Court may direct payment of alimony to wife or to her trustee: - In all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do. Maintenance Under Parsi Law: Parsi can claim maintenance from the spouse through criminal proceedings or/ and civil proceedings. Interested parties may pursue both criminal and civil proceedings, simultaneously as there is no legal bar to it.

In the criminal proceedings the religion of the parties doesn't matter at all unlike the civil proceedings. If the Husband refuses to pay maintenance, wife can inform the court that the Husband is refusing to pay maintenance even after the order of the court. The court can then sentence the Husband to imprisonment unless he agrees to pay. The Husband can be detained in the jail so long as he does not pay. The Parsi Marriage and Divorce Act, 1936 recognizes the right of wife to maintenance - both alimony pendente lite and permanent alimony. The maximum amount that can be decreed by court as alimony during the time a matrimonial suit is pending in court, is one- fifth of the husband's net income. In fixing the quantum as permanent maintenance, the court will determine what is just, bearing in mind the ability of husband to pay, wife’s own assets and conduct of the parties. The order will remain in force as long as wife remains chaste and unmarried. S.40. Permanent alimony and maintenance: - (1) Any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on an application made to it for the purpose by either the
wife or the husband, order that the defendant shall pay to the plaintiff for her or his maintenance and support, such gross sum or such monthly or periodical sum, for a term not exceeding the life of the plaintiff as having regard to the defendant's own income and other property, if any, the income and other property of the plaintiff, the conduct of the parties and other circumstances of the case, it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the movable or immovable property of the defendant. (2) The Court if it is satisfied that there is change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just. (3) The Court if it is satisfied that the party in whose favour, an order has been made under this section has remarried or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he had sexual intercourse with any woman outside wedlock, it may, at the instance of the other party, vary, modify or rescind any such order in such manner as the Court may deem just.

The maintenance and welfare of parents and senior citizens Act, 2007:- This act provide for more effective provisions for the maintenance and welfare of parents, parents and senior Citizens guaranteed and recognized under the consequential India and for matters connected their with or incidental their to

Sec.4:- Maintenance of parents and senior citizens:- 1) A Senior Citizen including parent who is unable to maintain himself form his own earing or out of the property own by him shall be entitle to make application and sec.5 of the Act in case of i) parent or grandparent, against one or more of his children not being minor. ii) A childless Senior Citizen against such of his relative referred to clause(g) of sec.2.

2. the obligation of children or relative as a case may be to maintain a Senior Citizen so that the senior Citizen may lead a normal life.

3) the obligation of the children to maintain his or her parent extents to the need of such parent either father or mother or both, as the case may be, so that such
parent may lead a normal life.

3. Any person being a reactivator of senior Citizen and having sufficient means shall maintain such senior Citizen provided he is in possession of property of such senior Citizen or he would inherit the propriety of such a senior Citizen. Provided more than one relatives or entitled to inherit the property of senior Citizen the maintenance shall be payable by such relive in the proportion in which they would inherit property.

Sec.5:- Application of maintenance:- An application of maintenance u/sec.4 may be made a) by a senior Citizen or a parent as the case may be, b) if he is in capable, by any other person or organization authorized by him, or the tribunal may take cognizance suo-muto.

Sec.6: Jurisdiction the proceedings u/sec.5 may be taken against any children or relative any district a) where he resides or last resided or b) where children or relative resides.

Sec.7:- Constitution of maintenance tribunal 1) the State Government may by notification in the official Gazette, constitute for each subdivision one or more tribunal as case may be specified in the notification for the purpose of adjudicating and decide upon he order of the maintenance u/sec.5. 2) the tribunal shall be presided over by an officer not below the rank of sub-divisional officer of state, 3) where two or more tribunal or constituted for any area, the state government may by general or special order, regulate the distribution of business among them.

Sec.8:- summary procedure as case of inquiry.

Sec.9:- order for maintenance.

9. Order for maintenance:- 1) If children or relatives as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to take a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct. 2) The maximum maintenance allowance which may be ordered by such Tribunal shall be such as
may be prescribed by the State Government which shall not exceed ten thousand rupees per month.

Sec.10 Alteration allowance:- on proof of misrepresentation or mistake of fact or changed in the circumstance of any person, receiving monthly allowance u/sec.5, for the maintenance or ordered under that sec.5, for the maintenance or ordered under that sec to pay monthly allowance for the maintenance, the Tribunal may make such alteration as it things fit, in the allowance for the maintenance.

Sec.11- Enforcement order of maintenance
Sec.13- Deposit of maintenance amount:- when an order is made under this chapter, the children's or relative who is required to pay any amount it terms of such order, shall within 30 days of the date of announcing the order by the Tribunal, deposit the entire amount order in such manner as the Tribunal may direct.

Sec.19 Establishment of oldage homes.

THE PROTECTION OF WOMEN FROM DOMESTIC VOILANCE ACT 2005:-

Sec.20- Monitory reliefs:- 1) While disposing of an application under subsection (1) of sec.12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any children of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to-

(a) the loss of earnings:

(b) the Medical expenses:

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance u/s.125 of the Code of Criminal procedure, 1973(2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which
the aggrieved person is accustomed.

3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstance of the case may require.

4) The magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in-charge of the police station within the local limits of whose jurisdiction the respondent resides.

5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Sec.23:- (1) power to interim and exparte orders.

Some citations regarding maintenance:-

1. Maintenance petition maintainability:- "IQBALBANO vs STAE OF UTTAR PRADESH AND ANOTHER 2007 AIR SCW 3880" petitioner for maintenance Under section 125 of the Cr.P.C. Can be maintained by the Muslim divorced woman, the proceeding of which are civil in nature.

2) illegitimate child maintenance:- "DIMPLE GUPTA (minor) vs RAJIV GUPTA, 2007 AIR SCW 6651" Claim for maintenance by illegitimate child, on the ground that the respondent was her father, which was supported by extracts from Birth Register, evidence of the mother and several other villagers, is liable to be allowed. 3) claim of maintenance entitled to :- "CHAN PATEL vs BISMILLAH BEGUM AND ANOTHER, 2008 AIR SCW 2161". wife and children of irregular Muslim marriage under Hanafi Law in India, could be entitled to maintenance under the provision of this section, as long as subsistence of such marriage unless the same is terminated in accordance with Law. 4) Earning Wife Maintenance to :-
"MINAKSHI GAUR vs CHITTARANJAN GAUR AND ANOTHER. 2008 AIR SCW 813" in sufficient earning of the wife entitled her to, claim of maintenance from the substantial earning of the husband. 5) petition for grant of maintenance-Maintainability:- "SHABANA BANO vs IMRAN KHAN. 2010 AIR SCW 745" petition by a divorced Muslim woman against her husband, in terms of sections 4 & 5 Muslim woman( Protection of rights on Divorce) Act, 1986 and under the Code of 1973, can be maintained even after period of iddat, as long as the woman does not remarry. 6) Grant of Maintenance - entitlement to:- "SAYGO BAI vs CHEERU BAIRANGI. 2011 AIR SCW 336". First wife (legally wedded wife) of husband cannot be denied grant of maintenance, on the ground of abandoning of husband by wife for 4-5 years, in view of specific assertion in evidence by first wife that the husband had entered into second marriage during her stay with her husband, before she along with their (first wife and husband) children were thrown out of the house.

FAMILY LAW (FOR MAINTENANCE OF SPOUSES AND CHILDREN'S ) ACT 1976.

5.—(1) (a) Subject to subsection (4) of this section, where it appears to the Court, on application to it by a spouse, that the other spouse has failed to provide such maintenance for the applicant spouse and any dependent children of the family as is proper in the circumstances, the Court may make an order (in this Act referred to as a maintenance order) that the other spouse make to the applicant spouse periodical payments, for the support of the applicant spouse and of each of the dependent children of the family, for such period during the lifetime of the applicant spouse, of such amount and at such times, as the Court may consider proper.

(b) Subject to subsection (4) of this section, where a spouse—

(i) is dead,
(ii) has deserted, or has been deserted by, the other spouse, or

(iii) is living separately and apart from the other spouse,

and there are dependent children of the family (not being children who are being fully maintained by either spouse), then, if it appears to the Court, on application to it by any person, that the surviving spouse or, as the case may be, either spouse has failed to provide such maintenance for any dependent children of the family as is proper in the circumstances, the Court may make an order (in this Act referred to as a maintenance order) that that spouse make to that person periodical payments, for the support of each of those dependent children, for such period during the lifetime of that person, of such amount and at such times, as the Court may consider proper.

(c) A maintenance order or a variation order shall specify each part of a payment under the order that is for the support of a dependent child and may specify the period during the lifetime of the person applying for the order for which so much of a payment under the order as is for the support of a dependent child shall be made.

(2) The Court shall not make a maintenance order for the support of a spouse where the spouse has deserted and continues to desert the other spouse.

(3) Where the applicant spouse has committed adultery, then-

(a) if the other spouse has condoned or connived at, or by wilful neglect or misconduct conduced to, the adultery, the adultery shall not be a ground on which the Court may refuse to make a maintenance order for the support of the applicant spouse,

(b) if the other spouse has not condoned or connived at, or by wilful neglect or misconduct conduced to, the adultery, the Court may, notwithstanding the adultery, make a maintenance order for the support of the applicant spouse in any case where, having regard to all the circumstances (including the conduct of the other spouse), the Court considers it proper to do so.

(4) The Court, in deciding whether to make a maintenance order and, if it decides to do so, in determining the amount of any payment, shall have regard to all the circumstances of the case and, in particular, to the following matters—

(a) the income, earning capacity (if any), property and other financial resources of the spouses and of any dependent children of the family, including income or benefits to which either spouse or any such children are entitled by or under statute, and

(b) the financial and other responsibilities of the spouses towards each other and
towards any dependent children of the family and the needs of any such dependent children, including the need for care and attention.

**CONCLUSION:** After reading and going through various sources of the personal laws, I feel that the Hindu laws much more clearly defined and gives much more rights to women in comparison to the Muslim Law. If we read the SHAHBANO case we could see that the Muslim and the Hindu women were on the same side. But later when the government passed the Muslim women (Protection of Rights on Divorce) Act, 1986 the Muslim women again seen to be more unprivileged than the Hindu Women. But latter the court in the **DANIAL LATIF VS UNION OF INDIA (2001(3) KLT 651)** judgment said that the Muslim women can also be awarded the same maintenance as Hindu Women for life time. From the above discussion, it can be concluded that Law of Maintenance with no doubts in inclined towards the females in both the structures whether it be Hindu Law or Muslim Law. Although the given laws may sound unjust to a few but the pragmatically they seem to be correct as in our country even till date women do not have the social status equal to that of men. The women of both the communities are suffering due to being poor, being women and than being a part of the patriarch society.