Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation. – For the purposes of this Chapter,-

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875), is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole, or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. – If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be a just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or interim maintenance and expenses of proceeding, as the case may be, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order."

(emphasis supplied)

In *Chaturbhuj* v *Sitabai*[7] this Court held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife by providing her food, clothing and shelter by a speedy remedy. Section 125 of the Cr.P.C. is a measure of social justice especially enacted to protect women and children, and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution.

Proceedings under Section 125 of the Cr.P.C. are summary in nature. In *Bhuwan Mohan Singh* v *Meena & Ors.*[8] this Court held that Section 125 of the Cr.P.C. was conceived to ameliorate the agony, anguish, financial suffering of a woman who had left her matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children. Since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband was required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute.

The issue whether presumption of marriage arises when parties are in a live-in relationship for a long period of time, which would give rise to a claim u/S. 125 Cr.P.C. came up for consideration in *Chanmuniya* v *Virendra Kumar Singh Kushwaha & Anr.*[9] before the Supreme Court. It was held that where a man and a woman have cohabited for a long period of time, in the absence of legal necessities of a valid marriage, such a woman would be entitled to maintenance. A man should not be allowed to benefit from legal loopholes, by enjoying the advantages of a *de facto* marriage, without undertaking the duties and obligations of such marriage. A broad and expansive interpretation must be given to the term "wife," to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time. Strict proof of marriage should not be a pre-condition for grant of

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[7] (2008) 2 SCC 316.
[8] (2015) 6 SCC 353.
[9] (2011) 1 SCC 141.
This judgment was referred to a larger bench.

maintenance u/S. 125 Cr.P.C. The Court relied on the Malimath Committ Report on Reforms of Criminal Justice System published in 2003, whi recommended that evidence regarding a man and woman living together for reasonably long period, should be sufficient to draw the presumption marriage.

The law presumes in favour of marriage, and against concubinage, when man and woman cohabit continuously for a number of years. Unlike matrimoni proceedings where strict proof of marriage is essential, in proceedings u/S. 12 Cr.P.C. such strict standard of proof is not necessary.[10]

(e) Protection of Women from Domestic Violence Act, 2005 ("*D.V. Act*")

The D.V. Act stands on a separate footing from the laws discusse hereinabove. The D.V. Act provides relief to an aggrieved woman who i subjected to "domestic violence." The "aggrieved person" has been defined b Section 2(a) to mean any woman who is, or has been, in a domestic relationshi with the respondent, and alleges to have been subjected to any act of domesti violence. Section 2(f) defines "domestic relationship" to include a relationshi between two persons who live, or have at any point of time lived together in shared household, when they are related by consanguinity, marriage, or throug a relationship in the nature of marriage, adoption, or are family members livin together as a joint family.

Section 2(q) of the Act defined "respondent" to mean an "adult male person" who is, or has been, in a domestic relationship with the aggrieved woman. In *Hiral P. Harsora & Ors.* v *Kusum Narottamdas Harsora & Ors.*[11] this Court held that the "respondent" could also be a female in a domestic relationship with the aggrieved person. Section 3 of the D.V. Act gives a gender-neutral definition to "domestic violence". Physical abuse, verbal abuse, emotional abuse and economic abuse can also be inflicted by women against other women. Even sexual abuse may, in a given fact circumstance, be by one woman on another. Section 17(2) provides that the aggrieved person cannot be

[10] *Kamala & Ors. v. M.R. Mohan Kumar* (2019) 11 SCC 491.
[11] (2016) 10 SCC 165.

cted or excluded from a "shared household", or any part of it by the respondent", save in accordance with the procedure established by law. If "respondent" is to be read as only an adult male person, women who evict or exclude the aggrieved person would then not be covered by the ambit of the Act, and defeat the very object, by putting forward female persons who can evict or exclude the aggrieved woman from the shared household. The Court struck down the words "adult male" before the word "person" in Section 2(q) of the 2005 Act, and deleted the proviso to Section 2(q), as being contrary to the object of the Act.

The expression "relationship in the nature of marriage" as being akin to a common law or a *de facto* marriage, came up for consideration in *D. Velusamy* v *D. Patchaiammal*.[12] It was opined that a common law marriage is one which requires that although a couple may not be formally married : (a) the couple hold themselves out to society as being akin to spouses; (b) the parties must be of legal age to marry; (c) the parties must be otherwise qualified to enter into a legal marriage, including being unmarried; and (d) the parties must have voluntarily cohabited, and held themselves out to the world as being akin to spouses for a significant period of time. However, not all live-in relationships would amount to a relationship in the nature of marriage to avail the benefit of D.V. Act. Merely spending week-ends together, or a one-night stand, would not make it a "domestic relationship".

For a live-in relationship to fall within the expression "relationship in the nature of marriage", this Court in *Indra Sarma* v. *V.K.V. Sarma*[13] laid down the following guidelines : (a) duration of period of relationship; (b) shared household; (c) domestic arrangements; (d) pooling of resources and financial arrangements; (e) sexual relationship; (f) children; (g) socialisation in public and (h) intention and conduct of the parties. The Court held that these guidelines were only indicative, and not exhaustive.

"Domestic violence" has been defined in Section 3 of the Act, which includes economic abuse as defined in Explanation 1 (iv) to Section 3, as :

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[12] (2010) 10 SCC 469.
[13] (2013) 15 SCC 755.

"Economic abuse which means deprivation of all or any economic or financial resources, to which the aggrieved person is entitled under any law or custom, whether payable under an order of a Court or otherwise, or which the aggrieved person requires out of necessity, including but not limited to household necessities for the aggrieved person, or her children."

Section 17 by a non-obstante clause provides that notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the "shared household", irrespective of whether she has any right, title or beneficial interest in the same. Section 17 reads as :

"17. Right to reside in a shared household:

(1) Notwithstanding anything contained household: in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law."

Section 19 deals with residence orders, grant of injunctive reliefs, or for alternate accommodation / payment of rent by the respondent.

A three-judge bench of this Court in *Satish Chander Ahuja* v *Sneha Ahuja*[14] has overruled the judgment in *S.R.Batra* v *Taruna Batra,*[15] wherein a two judge bench held that the wife is entitled to claim a right of residence in a "shared household" u/S.17 (1), which would only mean the house belonging to, or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. In *Satish Chander Ahuja* (supra), the Court has held that although the judgment in *S.R. Batra* (supra) noticed the definition of shared household under Section 2(s), it did not advert to different parts of the definition, which makes it clear that there was no requirement for the shared household to be owned singly or jointly by the husband, or taken on rent by the husband. If

[14] Decided on 15.10.2020 in C.A. No. 2483/2020 by a bench comprising of Hon'ble Justices Ashok Bhushan, R. Subhash Reddy and M.R.Shah.

[15] (2007) 3 SCC 169.

interpretation given in *S.R. Batra* is accepted, it would frustrate the object of the Act. The Court has taken the view that the definition of "shared household" in Section 2(s) is an exhaustive definition. The "shared household" is the household which is the dwelling place of the aggrieved person in present time. If the definition of "shared household" in Section 2(s) is read to mean all the houses where the aggrieved person has lived in a domestic relationship alongwith the relatives of the husband, there will be a number of shared households, which was never contemplated by the legislative scheme. The entire scheme of the legislation is to provide immediate relief to the aggrieved person with respect to the shared household where the aggrieved woman lives or has lived. The use of the expression "at any stage has lived", is with the intent of not denying protection to an aggrieved woman merely on the ground that she was not living there on the date of the application, or on the date when the Magistrate passed the order u/S. 19. The words "lives, or at any stage has lived in a domestic relationship" has to be given its normal and purposeful meaning. Living of the woman in a household must refer to a living which has some permanency. Mere fleeting or casual living at different places would not make it a shared household. The intention of the parties and the nature of living, including the nature of the household, must be considered, to determine as to whether the parties intended to treat the premises as a "shared household" or not. Section 2(s) r.w. Sections 17 and 19 grant an entitlement in favour of an aggrieved woman to the right of residence in a "shared household", irrespective of her having any legal interest in the same or not. From the definition of "aggrieved person" and "respondent", it was clear that :

(i) it is not the requirement of law that the aggrieved person may either own the premises jointly or singly, or by tenanting it jointly or singly;

(ii) the household may belong to a joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title, or interest in the shared household;

(iii) the shared household may either be owned, or tenanted by the respondent singly or jointly.

The right to residence u/S. 19 is, however, not an indefeasible right, especially when a daughter-in-law is claiming a right against aged parents-in-law. While granting relief u/S. 12 of the D.V. Act, or in any civil proceeding, the court has to balance the rights between the aggrieved woman and the parents-in-law.

Section 20 provides for monetary relief to the aggrieved woman :

> ***"20. Monetary reliefs.-***
> *(1) While disposing of an application under sub-section (1) of section 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 child of the aggrieved person as a result of domestic violence and such relief may include, but is not limited to,-*
> *(a) the loss of earnings;*
> *(b) the medical expenses;*
> *(c)the loss caused due to 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 under section 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 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 circumstances of the case may require."*
>
> (emphasis supplied)

Section 20(1)(d) provides that maintenance granted under the D.V. Act to an aggrieved woman and children, would be given effect to, in addition to an order of maintenance awarded under Section 125 of the Cr.P.C., or any other law in force.

Under sub-section (6) of Section 20, the Magistrate may direct the employer or debtor of the respondent, to directly pay the aggrieved person, or deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit

the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Section 22 provides that the Magistrate may pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence perpetrated by the respondent.

Section 23 provides that the Magistrate may grant an *ex parte* order, including an order under Section 20 for monetary relief. The Magistrate must be satisfied that the application filed by the aggrieved woman discloses that the respondent is committing, or has committed an act of domestic violence, or that there is a likelihood that the respondent may commit an act of domestic violence. In such a case, the Magistrate is empowered to pass an *ex parte* order on the basis of the affidavit of the aggrieved woman.

Section 26 of the D.V. Act provides that any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding before a Civil Court, Family Court or Criminal Court. Sub-section (2) of Section 26 provides that the relief mentioned in sub-section (1) may be sought in addition to, and alongwith any other relief that the aggrieved person may seek in a suit or legal proceeding before a civil or criminal court. Section 26 (3) provides that in case any relief has been obtained by the aggrieved person in any proceeding other than proceedings under this Act, the aggrieved woman would be bound to inform the Magistrate of the grant of such relief.

Section 36 provides that the D.V. Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

Conflicting judgments on overlapping jurisdiction

Some High Courts have taken the view that since each proceeding is distinct and independent of the other, maintenance granted in one proceeding cannot be adjusted or set-off in the other. For instance, in *Ashok Singh Pal* v *Manjulata*,[16] the Madhya Pradesh High Court held that the remedies available to an aggrieved person under S. 24 of the HMA is independent of S. 125 of the Cr.P.C. In an

[16] AIR 2008 MP 139.

application filed by the husband for adjustment of the amounts awarded in the two proceedings, it was held that the question as to whether adjustment is to be granted, is a matter of judicial discretion to be exercised by the Court. There is nothing to suggest as a thumb rule which lays down as a mandatory requirement that adjustment or deduction of maintenance awarded u/S. 125 Cr.P.C. must be off-set from the amount awarded under S.24 of the HMA, or vice versa.

A similar view was taken by another single judge of the Madhya Pradesh High Court in *Mohan Swaroop Chauhan* v *Mohini*.[17]

Similarly, the Calcutta High Court in *Sujit Adhikari* v *Tulika Adhikari*[18] held that adjustment is not a rule. It was held that the quantum of maintenance determined by the Court under HMA is required to be added to the quantum of maintenance u/S. 125 Cr.P.C.

A similar view has been taken in *Chandra Mohan Das* v *Tapati Das*[19], wherein a challenge was made on the point that the Court ought to have adjusted the amount awarded in a proceeding under S.125 Cr.P.C., while determining the maintenance to be awarded under S.24 of the HMA, 1955. It was held that the quantum of maintenance determined under S.24 of HMA was to be paid in addition to the maintenance awarded in a proceeding under S.125 Cr.P.C.

(ii) On the other hand, the Bombay and Delhi High Courts, have held that in case of parallel proceedings, adjustment or set-off must take place.

The Bombay High Court in a well-reasoned judgment delivered in *Vishal* v *Aparna & Anr.*,[20] has taken the correct view. The Court was considering the issue whether interim monthly maintenance awarded under Section 23 r.w. Section 20 (1)(d) of the D.V. Act could be adjusted against the maintenance awarded under Section 125 Cr.P.C. The Family Court held that the order passed under the D.V. Act and the Cr.P.C. were both independent proceedings, and adjustment was not permissible. The Bombay High Court set aside the judgment of the Family Court, and held that Section 20(1)(d) of the D.V. Act makes it clear

[17] (2016) 2 MP LJ 179.
[18] (2017) SCC OnLine Cal 15484.
[19] 2015 SCC OnLine Cal 9554.
[20] 2018 SCC OnLine Bom 1207.

maintenance granted under this Act, would be in addition to an order of maintenance under Section 125 Cr.P.C., and any other law for the time being in force. Sub-section (3) of Section 26 of the D.V. Act enjoins upon the aggrieved person to inform the Magistrate, if she has obtained any relief available under Sections 18, 19, 20, 21 and 22, in any other legal proceeding filed by her, whether before a Civil Court, Family Court, or Criminal Court. The object being that while granting relief under the D.V. Act, the Magistrate shall take into account and consider if any similar relief has been obtained by the aggrieved person. Even though proceedings under the D.V. Act may be an independent proceeding, the Magistrate cannot ignore the maintenance awarded in any other legal proceedings, while determining whether over and above the maintenance already awarded, any further amount was required to be granted for reasons to be recorded in writing.

The Court observed :

> *"18. What I intend to emphasize is the fact that the adjustment is permissible and the adjustment can be allowed of the lower amount against the higher amount. Though the wife can simultaneously claim maintenance under the different enactments, it does not in any way mean that the husband can be made liable to pay the maintenance awarded in each of the said proceedings."*
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> (emphasis supplied)

It was held that while determining the quantum of maintenance awarded u/S.125 Cr.P.C., the Magistrate would take into consideration the interim maintenance awarded to the aggrieved woman under the D.V. Act.

The issue of overlapping jurisdictions under the HMA and D.V. Act or Cr.P.C. came up for consideration before a division bench of the Delhi High Court in *RD v BD*[21] wherein the Court held that maintenance granted to an aggrieved person under the D.V. Act, would be in addition to an order of maintenance u/S. 125 Cr.P.C., or under the HMA. The legislative mandate envisages grant of maintenance to the wife under various statutes. It was not the intention of the legislature that once an order is passed in either of the

[21] 2019 VII AD (Delhi) 466.

maintenance proceedings, the order would debar re-adjudication of the issue of maintenance in any other proceeding. In paragraphs 16 and 17 of the judgment, it was observed that :

> *"16. A conjoint reading of the aforesaid Sections 20, 26 and 36 of DV Act would clearly establish that the provisions of DV Act dealing with maintenance are supplementary to the provisions of other laws and therefore maintenance can be granted to the aggrieved person (s) under the DV Act which would also be in addition to any order of maintenance arising out of Section 125 of Cr.P.C.*
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> *17. On the converse, if any order is passed by the Family Court under Section 24 of HMA, the same would not debar the Court in the proceedings arising out of DV Act or proceedings under Section 125 of Cr.P.C. instituted by the wife/aggrieved person claiming maintenance. However, it cannot be laid down as a proposition of law that once an order of maintenance has been passed by any Court then the same cannot be re-adjudicated upon by any other Court. The legislative mandate envisages grant of maintenance to the wife under various statutes such as HMA, Hindu Adoption and Maintenance Act, 1956 (hereinafter referred to as 'HAMA'), Section 125 of Cr.P.C. as well as Section 20 of DV Act. As such various statutes have been enacted to provide for the maintenance to the wife and it is nowhere the intention of the legislature that once any order is passed in either of the proceedings, the said order would debar re adjudication of the issue of maintenance in any other Court."*
>
> (emphasis supplied)

The Court held that u/S. 20(1)(d) of the D.V. Act, maintenance awarded to the aggrieved woman under the D.V. is in addition to an order of maintenance provided u/S. 125 Cr.P.C. The grant of maintenance under the D.V. Act would not be a bar to seek maintenance u/S. 24 of HMA.

Similarly, in *Tanushree & Ors.* v *A.S.Moorthy,*[22] the Delhi High Court was considering a case where the Magistrate's Court had *sine die* adjourned the proceedings u/S. 125 Cr.P.C. on the ground that parallel proceedings for maintenance under the D.V. Act were pending. In an appeal filed by the wife before the High Court, it was held that a reading of Section 20(1)(d) of the D.V. Act indicates that while considering an application u/S. 12 of the D.V. Act, the

[22] 2018 SCC OnLine Del 7074.

Court would take into account an order of maintenance passed u/S. 125 Cr.P.C., or any other law for the time being in force. The mere fact that two proceedings were initiated by a party, would not imply that one would have to be adjourned *sine die*. There is a distinction in the scope and power exercised by the Magistrate under S.125, Cr.P.C. and the D.V. Act. With respect to the overlap in both statutes, the Court held :

> *"5. Reading of Section 20(1)(d) of the D.V. Act further shows that the two proceedings are independent of each other and have different scope, though there is an overlap. Insofar as the overlap is concerned, law has catered for that eventuality and laid down that at the time of consideration of an application for grant of maintenance under Section 12 of the D.V. Act, the maintenance fixed under Section 125 Cr.P.C. shall be taken into account."*
>
> (emphasis supplied)

The issue whether maintenance u/S. 125 Cr.P.C. could be awarded by the Magistrate, after permanent alimony was granted to the wife in the divorce proceedings, came up for consideration before the Supreme Court in *Rakesh Malhotra v Krishna Malhotra*.[23] The Court held that once an order for permanent alimony was passed, the same could be modified by the same court by exercising its power u/S. 25(2) of HMA. The Court held that :

> *"16. Since the Parliament has empowered the Court Under Section 25(2) of the Act and kept a remedy intact and made available to the concerned party seeking modification, the logical sequitur would be that the remedy so prescribed ought to be exercised rather than creating multiple channels of remedy seeking maintenance. One can understand the situation where considering the exigencies of the situation and urgency in the matter, a wife initially prefers an application Under Section 125 of the Code to secure maintenance in order to sustain herself. In such matters the wife would certainly be entitled to have a full-fledged adjudication in the form of any challenge raised before a Competent Court either under the Act Or similar such enactments. But the reverse cannot be the accepted norm."*

The Court directed that the application u/S. 125 Cr.P.C. be treated as an application u/S. 25(2) of HMA and be disposed of accordingly.

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[23] 2020 SCC OnLine SC 239.

(iii) In *Nagendrappa Natikar* v *Neelamma*[24] this Court considered a case where the wife instituted a suit under Section 18 of HAMA, after signing a consent letter in proceedings u/S. 125 Cr.P.C., stating that she would not make any further claims for maintenance against the husband. It was held that the proceedings u/S. 125 Cr.P.C. were summary in nature, and were intended to provide a speedy remedy to the wife. Any order passed u/S. 125 Cr.P.C. by compromise or otherwise would not foreclose the remedy u/S. 18 of HAMA.

(iv) In *Sudeep Chaudhary* v *Radha Chaudhary*[25] the Supreme Court directed adjustment in a case where the wife had filed an application under Section 125 of the Cr.P.C., and under HMA. In the S. 125 proceedings, she had obtained an order of maintenance. Subsequently, in proceedings under the HMA, the wife sought alimony. Since the husband failed to pay maintenance awarded, the wife initiated recovery proceedings. The Supreme Court held that the maintenance awarded under Section 125 Cr.P.C. must be adjusted against the amount awarded in the matrimonial proceedings under HMA, and was not to be given over and above the same.

Directions on overlapping jurisdictions

It is well settled that a wife can make a claim for maintenance under different statutes. For instance, there is no bar to seek maintenance both under the D.V. Act and Section 125 of the Cr.P.C., or under H.M.A. It would, however, be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in a previous proceeding. If maintenance is awarded to the wife in a previously instituted proceeding, she is under a legal obligation to disclose the same in a subsequent proceeding for maintenance, which may be filed under another enactment. While deciding the quantum of maintenance in the subsequent proceeding, the civil court/family court shall take into account the maintenance awarded in any previously instituted proceeding, and determine the maintenance payable to the claimant.

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[24] (2014) 14 SCC 452.
[25] (1997) 11 SCC 286.

To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, we direct that in a subsequent maintenance proceeding, the applicant shall disclose the previous maintenance proceeding, and the orders passed therein, so that the Court would take into consideration the maintenance already awarded in the previous proceeding, and grant an adjustment or set-off of the said amount. If the order passed in the previous proceeding requires any modification or variation, the party would be required to move the concerned court in the previous proceeding.

Payment of Interim Maintenance

The proviso to Section 24 of the HMA (inserted *vide* Act 49 of 2001 w.e.f. 24.09.2001), and the third proviso to Section 125 Cr.P.C. (inserted *vide* Act 50 of 2001 w.e.f. 24.09.2001) provide that the proceedings for interim maintenance, shall as far as possible, be disposed of within 60 days' from the date of service of notice on the contesting spouse. Despite the statutory provisions granting a time-bound period for disposal of proceedings for interim maintenance, we find that applications remain pending for several years in most of the cases. The delays are caused by various factors, such as tremendous docket pressure on the Family Courts, repetitive adjournments sought by parties, enormous time taken for completion of pleadings at the interim stage itself, etc. Pendency of applications for maintenance at the interim stage for several years defeats the very object of the legislation.

(ii) At present, the issue of interim maintenance is decided on the basis of pleadings, where some amount of guess-work or rough estimation takes place, so as to make a *prima facie* assessment of the amount to be awarded. It is often seen that both parties submit scanty material, do not disclose the correct details, and suppress vital information, which makes it difficult for the Family Courts to make an objective assessment for grant of interim maintenance. While there is a tendency on the part of the wife to exaggerate her needs, there is a corresponding tendency by the husband to conceal his actual income.

It has therefore become necessary to lay down a procedure to streamline the proceedings, since a dependant wife, who has no other source of income, has to take recourse to borrowings from her parents / relatives during the interregnum to sustain herself and the minor children, till she begins receiving interim maintenance.

(iii) In the first instance, the Family Court in compliance with the mandate of Section 9 of the Family Courts Act 1984, must make an endeavour for settlement of the disputes. For this, Section 6 provides that the State Government shall, in consultation with the High Court, make provision for counsellors to assist a Family Court in the discharge of its functions. Given the large and growing