



# ASSESSMENT OF LEGAL PROVISIONS FOR MAINTENANCE UNDER SECTION 125 OF THE CODE OF CRIMINAL PROCEDURE

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**Abstract--** Longevity is a fundamental dream of all living things. In traditional Indian culture, elders are given a high status and a symbol of respect. It is the virtuous duty of every person to keep his dependent parents, children and wives in the most suitable security. However, the winds of change are blowing around us, and new situations are arising. “Dependent parents, children and wives have faced economic, social and political challenges as a result of nuclear family structure, modernization, industrialization, population growth, globalization, rising unemployment and poverty among other factors. Physical, physical and emotional violence, as well as lack of financial support, add to the humiliation of injury.” Has a dependent parent, children and wives devoted their whole lives for this? This change in conduct necessitated the provision of defence and social welfare.

“Section 125 of the Code of Criminal Procedure provides for a quick, effective and relatively inexpensive remedy against persons who neglect or refuse to maintain their dependent parents, children and wives. Although the subject matter of these provisions is civil in nature, the primary justification for their inclusion in the Code is that the remedy provided is quick and economical.”

Dependent parents, children, and wives were increasingly oppressed, as they were compared to godly beings and addressed as “Matra-deva bhava”, “Pitrudeva bhava”, and so on, which was not the customary common practice. Was. The present situation brought tears to the eyes of the author, so he did this research study on the law for maintenance to wife, parent and children under section 125 of Cr.P.C. and what protective laws, as well as punitive provisions, were designed to bring to light what safeguards are required to provide Social Security to dependent parents, children, and spouses. and what amendments would be needed in the existing laws to improve the Indian cultural roots, and how effective is the judiciary in promoting and protecting the right to live in respect of this vulnerable section of people, namely dependent parents, children and wives has been.

**Keywords:** Section 125 of CrPC, Reforms, Legislative Loopholes, Amendment Bill, Evaluation.

## INTRODUCTION

“Providing maintenance is in itself a measure of social justice. It is the fundamental duty of a man to maintain his wife, children, parents, close relatives, etc., till they are unable to maintain themselves. The purpose of sustenance is to prevent immorality and deprivation and to improve the economic condition of women and children. Maintenance laws in India relating to dependent parents, children and spouses can be classified into two types. The first type envisages maintenance after divorce, or some other marital measure, e.g., nullification of marriage.”

“The second type envisages maintenance during the solemnization of the marriage, in the first category under section 25 of the Hindu Marriage Act 1955 and in the second category, maintenance of the wife, parents and children under section 125 of the CrPC and Adoption and maintenance can be claimed.”

This paper attempts to plug the loopholes in the main maintenance laws governing the head of the family and provides adequate measures for the same.

“Section 125 of the Code of Criminal Procedure provides for a quick, effective and relatively inexpensive remedy against persons who neglect or refuse to maintain their dependent parents, children and wives. Although the subject matter of these provisions is civil in nature, the primary justification for their inclusion in the Code is that the remedy provided is quick and economical.

***Under this provision, if any person possesses substantial means and neglects or refuses to maintain the same:***

1. His wife,
2. His legal or illegitimate minor child (whether married or not),



3. Her legitimate or illegitimate elder child (not being a married daughter) by reason of any mental or physical abnormality or injury.
4. His father or mother,

are unable to maintain themselves, the Judicial Magistrate of the first class may, after obtaining proof of such person's neglect or refusal, order the monthly maintenance to be provided to such persons.

“Section 125 of the CrPC is a means to provide for a speedy, cheap and effective remedy against persons who refuse or neglect their duty to maintain persons dependent on them. The section discharges a social function to achieve and maintain social distancing. It also comes under Article 15(3), which has been further strengthened by Article 39.” It is an important section which deals with the human rights of women and is a legal instrument of social relevance which is used to uphold the rights of the weaker section of the society. They are, in a way, aimed at preventing starvation and straying related to the commission of crimes.

It is available to people of all religions and has nothing to do with the personal laws of the parties. In the famous Shah Bano case, “the court ruled that Muslim women are also entitled to maintenance under section 125 of CrPC.” Even the then Chief Justice Y.V. Chandrachud remarked in that case that “a Uniform Civil Code would help the cause of national unity by removing unequal allegiance to the law with conflicting ideologies. Section 125 is a reflection of the idea of Uniform Civil Code.”

## OBJECTIVE

This paper attempts to plug the loopholes in the main maintenance laws of Section 125 of the Code of Criminal Procedure governing the head of the family and provides adequate remedies for the same.

## SCOPE OF SECTION 125 OF CRPC

Maintenance under the law is defined as an amount paid to a dependent person such as a wife, child or parent so that they can support themselves financially. It has also been defined under “section 2(b) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which includes the provision of food, clothing, residence and medical attendance and treatment.”

Generally, such matters of maintenance are dealt with in accordance with the personal laws of the religion to which the parties belong. However, this section is applicable to all religions and carries no value in terms of personal law right under it, however, it is relevant to establish the validity of marriage and cannot be completely excluded. There is no conflict between the provisions of section 125 and any personal law on maintenance. However, if some maintenance has already been paid under personal law, the same may be taken into account by the Magistrate while deciding the allowance to be paid. Otherwise, it is separate and separate from the personal laws of the parties and is truly secular in nature.

This provision provides for interim maintenance, which means that the court may order the husband to maintain his wife, although this amount may be changed or cancelled by the Magistrate in case of change in the position of the parties in the case can be done. Such applications can be filed in the respective district. The purpose of the section is social in nature.

## LAWS APPLICABLE TO MAINTENANCE MATTERS IN INDIA: DIFFERENT LAWS APPLY

“The matters of maintenance of wives, parents, sons, daughters and other dependents and the Acts falling under the jurisdiction of Family Courts established under the provisions of the Family Courts Act, 1984 are as under:

1. Code of Criminal Procedure, 1973 (Sections 125 to 128)”



2. The Family Court Act, 1984
3. Hindu Adoption and Maintenance Act, 1956
4. Protection of Women from Domestic Violence Act, 2005
5. The Protection of Women from Domestic Violence Rules, 2006
6. Hindu Marriage Act, 1955
7. Muslim Women (Protection of Rights on Divorce) Act, 1986
8. Muslim Women (Protection of Rights on Divorce) Rules, 1986
9. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007
10. The Maintenance Order Enforcement Act, 1921
11. The Special Marriage Act, 1954
12. The Divorce Act, 1869
13. Parsi Marriage and Divorce Act, 1936
14. Muslim Marriage Dissolution Act, 1939
15. Hindu Minorities and Guardianship Act, 1956
16. The Guardians and Wards Act, 1890
17. Christian Marriage Act, 1872
18. Foreign Marriage Act, 1969
19. The Muslim Women Personal Law (Shariat) Application Act, 1937
20. Prohibition of Child Marriage Act, 2006
21. The Anand Marriage Act, 1909
22. Dowry Prohibition Act, 1961
23. Marriage Recognition Act, 1892
24. The Dissolution of the Marriage of Converts Act, 1866
25. Judicial Announcements of Courts

## WHO CAN CLAIM MAINTENANCE UNDER SECTION 125 OF CRPC

### *Wife*

Any wife, whether of elder or minor age, who is unable to maintain herself, is entitled to maintenance under section 125(1)(a). As per Explanation (b), the word 'wife' under this section includes an unmarried divorced wife. Earlier, till the verdict in Shah Bano Begum case, a divorced wife was not entitled to maintenance and this caused great injustice to the women, especially the Muslim community. In any of these cases the marriage must be valid as per the law. A woman is in a relationship with a married man, notwithstanding the unfortunate situation, she is not entitled to maintenance, this can lead to injustice but the Supreme Court held that such inadequacy can be rectified only by the legislature.

Strict proof of marriage is not absolutely necessary, as this clause is meant as an instrument for social justice and therefore has been given for wider interpretation, however, the High Court and the Supreme Court went back and forth on the issue until That the Supreme Court does not take this decision. "A man and a woman who have been living together as husband and wife for a sufficiently long period of time may be treated as a valid proof of married life under this section and shall be deemed to be so for matters of maintenance."

If a husband remarries, the first wife still falls under the definition, even if the second marriage is valid under personal law, even if she has consented to the marriage. In such a case the proof of neglect is not necessary for the wife to make her case for maintenance.



There are ways where this maintenance can be skipped. “Under sub-section (4) of section 125 the court is required to ensure that the husband has sufficient means to maintain his wife, if he does not, this section does not apply. Further, the wife should not live in adultery separately, unless it is justified by the court to refuse to live with the husband. This applies even if the separation is mutual. If the marriage becomes void or annulled under section 12 of the Hindu Marriage Act, the wife is not entitled to maintenance.”

### **Child**

A child who is still a minor in accordance with the Indian Majority Act, 1875, i.e. a person who has not attained the age of 18 years,” whether lawful or illegitimate, or married or unmarried, may claim maintenance under section 125. is entitled to (1) (b). Further, if the husband of a minor girl is unable to support her, the father of such girl is required to maintain her in accordance with the provision of this section. In order for such existence to be claimed, the child must be born, the maintenance of the foetus when the woman is still pregnant is not covered under this section. Even in a case where the child is in the custody of someone else, the father of such child still has an obligation to maintain them.

Under this section the maintenance of the child is based on paternity. This is irrespective of the legality or illegality of the child, so the child whose parents are not legally married is still entitled to maintenance by law. There is no claim to the child if paternity cannot be established. The child may be adopted or may be born naturally.

After attaining majority, a child, whether lawful or illegitimate, as long as she is not a married daughter, may claim maintenance under section 125(1)(c) by reason of physical or mental abnormality or injury and the child is unable to sustain himself related to such a reason. An elder unmarried daughter who is not suffering from any mental or physical illness cannot claim maintenance under section 125 CrPC.

### **Guardian**

As per section 125(1)(d), the mother or the father who is unable to maintain himself is entitled to claim maintenance from his children under this section. Although the word 'her' is used, it applies to both male and female children of a parent. Indian society places the duty of parenting on children and this social responsibility applies equally to a daughter.

It is not clear whether the interpretation of the terms ‘father’ and ‘mother’ includes adoptive father and mother, and stepfather and mother. The Bombay High Court in a judgment held that under section 3(20) of the General Clauses Act, the word father includes the adoptive father, but the word 'mother' has to be given its natural meaning in relation to the object and intent of the section. And that would not include the stepmother.

The Supreme Court, in a later judgment, liberally interpreted the clause and held that a stepmother who has no children of her own and whose husband has died, or if her husband is alive, is unable to support her, too. Unable to support herself, may claim maintenance from her stepson.

The word ‘parent’ is not used in sub-section (4); This was interpreted by the High Court of Andhra Pradesh in N.B. Bhikshu v. State of Andhra Pradesh, implying that only a legitimate child has an obligation to retain his parent and the parent can make a claim against any child against the fulfilment of such obligation.

## **MAINTENANCE - A RIGHT UNDER CRIMINAL LAW**

The right of maintenance provided under “Section 125 of the Code of Criminal Procedure is something new and unique in Indian law. It shows a combination of features of criminal law, civil law



and family law, but does not fall under any of these branches. These proceedings, although initiated by or on behalf of destitute persons, involve the State directly looking into the enforcement of a personal obligation. The State's interest in observing the proper enforcement of a personal obligation is because failure to fulfil such obligation would place the liability on the State. Viewed as maintenance of the Common Civil Code, the law has been widely interpreted such that now, as it stands, no word in it is left unexplained.” “No other law in India had triggered such a storm of events, which was under section 125 of CrPC.”

This provision remained as the first unified law on the individual aspect of non-holy religious communities in India. *Tahira Vs Ali Hussain*, *Fuzlumbi Vs K. The Supreme Court of India in Khadar Valir*, *Mst. Zohra Khatoon Vs Ibrahim and Mohd. Ahmed Khan v Shah Bano Begum* upheld the secular features of the provision. Some of the classes for which the benefits are intended are now governed by their own personal law. “The Muslim Women (Protection of Rights on Divorce) Act, 1986 specifically excludes the application of this provision to Muslim divorced women. To claim 'wife' status, the language of the provision must be read in conjunction with the personal law of the parties. This raises serious doubts about the secular features of the law and the generality of the relief provided in favour of the wife, child or parent.”

Section 125 Cr.P.C. provides maintenance as a fundamental right, is not the same for all married women. When the validity of marriage is examined in the light of personal laws, a conflicting stand is taken by the judiciary. A Muslim husband's second wife is entitled to maintenance while under Hindu law one is not. All divorced women except one belonging to Muslim religion are entitled to maintenance.” A child whose marriage is void or voidable is also recognized with the right to maintenance. But an innocent victim is denied maintenance for the marriage performed on her by a dishonest male member. All these raise doubts about the secular characteristics and protective purpose claimed by the provision.

## FEATURES OF SECTION 125 OF CRPC

The maintenance claim is based on the following conditions, listed as follows:

### **A. Adequate means to maintain**

It is the most basic condition that an order of maintenance can be passed against a person only if he has “sufficient means to maintain” the person making the claim and refuses or neglects to do so. As stated by the Delhi High Court, this means that as long as a person is healthy and able, he is deemed to own the means of supporting his family and cannot be relieved of such liability. because he is unemployed, debt or bankruptcy.

The burden of proof lies on the person who claims that he does not have sufficient means to maintain it. Liability is not removed simply because he is unemployed. High Courts have been strict in interpretation as also demonstrated in the case *Hardev Singh Vs State* where the court held that if a person cannot pay such maintenance allowance because he is a monk, then It is his duty to throw away the yellow cloth and work. The reason for such an interpretation is the social justice factor and protection of the weaker section of the society, which includes women, children and the elderly.

### **B. Neglect and refusal to maintain**

‘Disregard’ is used to mean a failure to maintain, even if no such demand is made against the maintenance, the word basically implies a dereliction of duty which may be either wilful.

‘Refusal to maintain’ occurs when there is a refusal with a clear intention to perform his duty, this refusal may be expressed or even implied by the conduct of the husband. For this the burden of proof rests with the claimant. In order to claim maintenance, it is necessary that the wife is living with the

husband, but such condition can be removed from her claim if the Magistrate thinks that she has a reasonable cause for doing so, for example If the husband has taken in a new wife and if this is permitted by his personal law, the claimant wife may refuse to live with the husband and still be able to claim maintenance. In such a case the husband may be treated as neglected and may refuse to fulfil his obligation even if the condition is that the claimant wife must live with him and his other wife to claim maintenance.

### **C. *The claimant should be unable to sustain himself***

One of the things required for a wife to claim maintenance is that she is unable to sustain herself. She need not specifically argue that she is unable to sustain herself. But in a case of the High Court of Karnataka, the court held that if the wife is of healthy and quality education and still unable to maintain herself, she can still claim maintenance.

### **D. *Maintenance Quantity***

The magistrate was required to award maintenance of more than Rs. 500 up to Amendment Act No. 50 of 2001. No, there is no cap on the maximum amount, it is left to the magistrate to decide the monthly rate as he may deem fit for the case. The rate is to be fixed and fixed and not progressively increased, however, it may be changed from time to time in terms of section 127. If both the wife and the child are claimants against the same person, it is not within the section to award them a joint payment, each having a separate claim which may be so awarded.

## CASES OF MAINTENANCE AND WELFARE OF DEPENDENT PARENTS, CHILDREN AND WIVES UNDER “SECTION 125 OF THE CODE OF CRIMINAL PROCEDURE”

1. ***Strict proof of marriage should not be insisted upon as a pre-condition for maintenance under section 125 CrPC:*** Broad and detailed explanation of the word 'wife' The word 'wife' should be given a comprehensive and detailed explanation, even That should also include cases where a man and a woman have been living together as husband and wife for a long time, strict proof of marriage should not be a precondition for maintenance. (Chanmuniya Vs. Virendra Kumar Singh Kushwaha, Combined 2010 (11) SC 132)
2. ***Impotence of husband Grounds for wife to live separately:*** A wife refuses to live with her husband on the ground of impotence, it is a just cause and she is entitled to maintenance under section 125 CrPC. (Siraj Mohammed Khan Jan Mohammed Khan Vs. HafizunnisaYasinkhan, AIR 1981 sc 1972)
3. ***‘Wife’ in section 125 of CrPC and only legally married wife under Hindu Adoption and Maintenance Act, 1956 means:*** The ambit of section 125 of CrPC cannot be extended by introducing an artificial definition to include a legally married woman in the expression ‘wife’. A woman who is not legally married is not entitled to maintenance under section 125 CrPC. (Savitaben Vs State of Gujarat, (2005) 3 SCC 636)
4. ***The nature of the provisions under section 125 CrPC is a social justice law:*** The nature of the provisions of section 125 CrPC is a social justice law. Specific approach should be adopted while dealing with cases under section 125 CrPC. There is a need to drift away from “adverse” litigation to social context adjudication approaches. References:
  - (i) Badshah Vs. Urmila Badshah Godse and others, (2014) 1 SCC 188
  - (ii) Dwarka Prasad Satpathy Vs. Vidyut Prava Dixit, AIR 1999 SC 3348.
5. ***Proceedings under Section 125 CrPC are civil in nature:*** Jurisdiction of Magistrate under Chapter IX CrPC is not strictly criminal jurisdiction. Proceedings under section 125 CrPC are civil in nature. Reference:



- (i) Vijay Kumar Prasad Vs. State of Bihar, (2004) 5 SCC 196.  
(ii) Savitri Vs. Govind Singh Rawat, (1985) 4 SCC 337.
6. **Section 125 CrPC to be construed liberally:** Section 125 CrPC is a measure of social law and is to be applied liberally for the welfare and benefit of wife and children. References :  
(i) Shanta Vs. BG Shivananjappa, (2005) 4 scc 468  
(ii) Savitaben Vs. State of Gujarat, (2005) 3 SCC 636
7. **Proceeding under CrPC 125:** Proceeding under section 125 CrPC is summary in nature and intended to provide speedy remedy to the wife. References:  
(i) Nagendraappa Natikar Vs. Nilamma, AIR 2013 SC 1541  
(ii) Dwarka Prasad Satpathy Vs. Vidyut Prava Dixit, AIR 1999 SC 3348
8. **Standard of Proof of Marriage:** It has been held by Hon'ble Supreme Court in Vidyut Prava Dixit, AIR 1999 SC 3348, that for the purpose of summary proceedings under section 125 CrPC, "the validity of marriage is to be determined on the basis of the evidence brought thereon. Records by the parties.  
The standard of proof of marriage in such proceedings is not as strict as is required in the trial of offense 494 of IPC. If the claimant is able to show in the proceeding under section 125 of the Code that he and the defendant are living together as husband and wife. The court may assume that they are legally married spouses, and in such a situation the party that denies marital status may refute the presumption. One, if it is accepted that the process of marriage was followed, then there is no need to inquire whether the said process was completed in accordance with Hindu customs in the proceedings under section 125 of CrPC, it is headed if the magistrate is the first. Proceedings under section 125 Cr PC are satisfied in respect of the performance of marriage which are of summary nature, do not require strict proof of performance of the necessary rites. After not disputing the paternity of a child born after a few days of marriage and after accepting the fact that the marriage ceremony was performed, though not legally correct, the husband to proceed under section 125 Cr There would hardly be a lie in the mouth of the PC that there was no valid marriage as the necessary rites were not performed at the time of the said marriage. The provision of section 125 Cr PC is not to be used to defeat the rights given by the legislature to destitute women, children or parents who are victims of the social environment.  
Further the order passed under section 125 Cr PC does not ultimately determine the rights and liabilities of the parties and the parties can file a civil suit to determine their position."Reference:Savitaben Vs. State of Gujarat (2005) 3 SCC 636 (Para 13)
9. **Standard of Proof of Marriage:** Sumitra Devi Vs. Bhikan Choudhary, 1985 Cr LJ 528 (Sc) u/s 125 Cr PC for maintenance, "it has been held by the Hon'ble Supreme Court that to have a valid marriage as per Hindu law, certain religious rites have to be performed." The Supreme Court invoked fire as the two basic requirements for a traditional marriage and performed the Saptapadi around the sacred fire. It is equally true that marriages acceptable in law may take place according to customs that do not entail the performance of such rites as mentioned above and that such marriages give rise to legal relations which the law accepts.
10. **Standard of Proof of Marriage:** Amit Agarwal Vs. State of U.P., 2007 (1) ALJ 277 (all) and Bhirari Singh Vs. UP State, 1990 Cr. LJ 844 (All), It is held by the Hon'ble Allahabad High Court that "Sec. 125 CrPC proceeds on the basis of actual marriage and not on the basis of a legal marriage as the foundation of payment of maintenance under section 125 CrPC is the existence of the matrimonial relationship. Laws enacted as measures of social welfare should be interpreted in such a way as to make their enforcement effective in spite of minor significant constraints. Sec.

125 CrPC is a social welfare law for the benefit of destitute women and its operation should not be allowed to be interrupted or impeded by pleas of marriage being void, voidable or irregular.”

11. ***Magistrate may insist for affidavit before passing ex-parte order for interim maintenance under section 125 of CrPC:*** “Magistrate on grounds of support of claim of interim maintenance filed by or on behalf of the applicant concerned Can insist on an affidavit to go. Satisfy yourself that there is a prima facie case for making such order. “If a civil court can pass such interim order on affidavit, there is no reason why a magistrate should not rely on them for the purpose of issuing directions regarding payment of interim maintenance.” Reference: Savitri Vs. Govind Singh, AIR 1986 SC984.
12. ***A legally married woman should not be treated as 'wife' and not entitled to maintenance under section 125 CrPC:*** In the case of Savitaben Sombhai Bhatia Vs. State of Gujarat, 2005 Cr LJ 2141 (SC), has held that the legislature considered it necessary to include an illegitimate child within the purview of section 125, but has not done so in respect of a legally married woman. Thus, although it may be desirable to take note of the plight of the unfortunate woman, who inadvertently entered into marriage with a married man, the legislative intent is clearly reflected in Section 125 of the CrPC, with no scope for elaboration. Not there. Scope to introduce any artificial definition to include a legally married woman in the expression 'wife'. This may be an inadequacy in the law, which can only be undone by the legislature. Even though it is true that the husband was treating the woman as his wife, it is actually irrelevant. It is the intention of the legislature that is relevant and not the attitude of the party. The principle of withholding cannot be applied for failing the provision of section 125 of CrPC.”
13. ***The second wife is entitled to maintenance under CrPC section 125 if the husband has concealed from her the subsistence of his first marriage:*** “Where the husband cheated the second wife by not disclosing the fact of his previous marriage, this Supreme Court the Court has held that the husband cannot deny maintenance to his second wife under Section 125 CrPC in such a case and she cannot be allowed to take advantage of his mistake. His first marriage being void under the Hindu Marriage Act, 1955, the second wife was not entitled to maintenance as she was not his legally married wife. Reported in earlier decisions of the Supreme Court  
(i) Yamunabai Anantrao Adhav Vs Anantrao Shivram Adhav, (1988) 1 SCC 530 and  
(ii) Savitaben Somabhai Bhatia Vs. State of Gujarat, (2005) 3 SCC 636  
The husband's support of the said argument would be applicable only in those circumstances where a woman marries a man having full knowledge of the subsistence of her first marriage. Thus, the second wife having no knowledge of the first subsistence marriage should be treated as a legally married wife for the purpose of claiming maintenance. Badshah v. Urmila Badshah Godse et al., (2014)1 SCC 188.
14. ***Wife entitled to receive alimony from her husband under section 125 of CrPC:*** “Where the husband had put up material to show that the wife was earning some income, it has been held by the Hon'ble Supreme Court that this is sufficient to set aside There is no application of section 125 CrPC. It has to be established that with the amount she earned, the wife was able to maintain herself. Whether the abandoned wife was unable to maintain herself is to be decided on the basis of the material on record. Where the personal income of the wife is insufficient, she can claim maintenance under section 125 CrPC. The test is whether the wife is in a position to maintain him in place of her husband. The factual finding of the court that the wife is unable to sustain herself cannot be interfered with in the absence of deformity.”Reference: Quadrilateral Vs. Sita Bai, AIR 2008 SC 530



15. **Earnings of wife and its effect:** Merely because the wife was earning something, shall not be a ground for dismissal of her claim for maintenance under section 125 CrPC. Reference: Sunita Kachwaha Vs. Anil Kachwaha, AIR 2015 Sc 554. 11(a).  
Upper limit of amount of maintenance under CrPC 125: (a) After amendment in section 125 CrPC by Code of Criminal Procedure (Amendment) which is a Central Act. Act, 2001, which omitted the words “whole not exceeding five hundred rupees”, all State amendments to section 125 CrPC, by which limit the amount of maintenance to be paid to a wife, to be void went. Reference: Manoj Yadav v Pushpa, AIR 2011 sc 847.
16. **Upper limit of maintenance under section 125 CrPC in the state of UP:** After amendment to section 125 CrPC, which is a Central Act, by the Code of Criminal Procedure (Amendment) Act, 2001, in which the words “not more than five” have been omitted. All state amendments to section 125 CrPC which cap the amount of maintenance to be paid to a wife have been struck down. Reference: Manoj Yadav v Pushpa, AIR 2011 sc 847.

### ENFORCEMENT OF SECTION 125 OF CRPC

There are two modes of operation of the section listed under sub-section (3) which are:

1. Warrant of fine
2. Imprisonment till payment is made, which may extend to one month, if after warrant, if the part or full amount is not paid.

Warrants are issued only when, as per the first provision of section 125(3), an application is made to the court within a period of one year from the date of such sum becoming due.

The Supreme Court has made it clear that the imprisonment provided under this section does not exist as a substitute for the obligation to pay maintenance, but rather as a mode of enforcement so that the obligation is discharged at the earliest. Liability is discharged only after payment is made.

### CONCLUSION AND SUGGESTIONS

Maintenance and Maintenance of Dependent Parents, Children and Wives under 125 of CrPC, is the first law of India which clearly lays down the requirements of dependent parents, children and wives. It not only envisages family care of dependent parents, children and wives, but it is also the responsibility of the government to provide adequate physical facilities and social order to ensure their welfare. It is an important piece of legislation that provides legal backing to the moral duty of the younger generation to care for and support parents and dependent parents, children and wives. Under Section 125 of the Act, the State Government is empowered to draft an action plan to ensure the safety of life and property of dependent parents, children and spouses in their respective States. It is suggested that the Act be amended to empower the Tribunal to order eviction in cases where the property is undisputedly owned by senior citizens.

In order to deliver justice efficiently and expeditiously, Tribunals created under the Act should be presided over by only a legal practitioner, preferably a retired judge, as they are better prepared for the job. For effective implementation, awareness should be created among the age group and parents.

Section 125 of CrPC aims to protect the rights of a dependent person who find himself in a more difficult position than others and does not have the means and resources to sustain him. In such cases it has usually been the wives, children and parents. However, since the social aspect weighs heavily on the role of this clause, it becomes important for courts to consider the facts on a case-by-case basis, and ultimately be cautious that justice is done to all parties. Is. It is important to keep in mind the changing cultural facts and dynamics while moving forward. So far, the interpretations made by the



Supreme Court have been fairly lenient and flexible, and the High Courts' approach has been slightly different, but this only demonstrates that cultural and social aspects differ in different regions and to leave it out must be given. Unless otherwise required, in such case in accordance with the discretion of the Courts.

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