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Maintenance Rights of Muslim wife: A Journey From Shah Bano to Mohd Abdul Samad

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I. Introduction:

The judiciary in India serves as the guardian of the Constitution and plays a pivotal role in ensuring justice, equality, and the protection of fundamental rights for all citizens, including those governed by personal laws. India's legal system is a unique amalgamation of personal laws and secular constitutional principles. While this pluralistic framework seeks to honour the religious and cultural diversity of its citizens, it also gives rise to challenges especially in areas where personal law come into conflict with constitutional mandates. One of the most significant areas of this conflict is the issue of maintenance for Muslim women after divorce. Governed traditionally by Islamic personal law, Muslim women have often faced legal and societal obstacles in asserting their right to financial support post-divorce, particularly beyond the iddat period. In such scenarios, the Indian judiciary has emerged as a powerful institution in reinterpreting and reforming legal doctrines to ensure justice, gender equality, and constitutional harmony.The judiciary has played an instrumental role in redefining the maintenance rights of Muslim women in absence of codified provisions under Muslim law. It has been significantly expanding the scope of secular provisions such as Section 125 of the Criminal Procedure Code, 1973 (Corresponding section 144 of Bharatiya Nagarik Suraksha Sanhita,2023). Section 125 of CrPC, being a gender-neutral and religion-neutral welfare legislation, mandates that no wife—irrespective of religion—should be left destitute or financially helpless after divorce. Recognizing the limitations imposed by rigid personal law interpretations, Indian courts have persistently interpreted maintenance provisions in a manner that upholds the broader constitutional values of equality, dignity, and non-discrimination under Articles 14, 15, and 21 of the Constitution.Furthermore article 141 of the India constitution empower the Apex Court to declare rules that are binding on all the lower courts across the country .

Moreover Article 142 of the Indian Constitution confers a unique and extraordinary power upon the Supreme Court of India, enabling it to pass any decree or order necessary to ensure the delivery of complete justice in any cause or matter pending before it. This provision serves as a constitutional tool that allows the Court to transcend procedural limitations and fill legal voids where existing laws may fall short in delivering equitable remedies. The orders issued under Article 142 are binding and enforceable throughout the territory of India, reflecting the apex court's paramount role as the ultimate guardian of justice. This article is often invoked in complex or exceptional situations, where rigid adherence to statutory provisions may result in injustice, thereby reinforcing the judiciary's capacity to uphold constitutional morality and public interest. In light of this empowering provision, the Indian judiciary has significantly expanded the magnitude and significance of maintenance rights of Muslim wives in India—from the landmark Shah Bano judgment in 1985 to Mohd Abud Samad in 2024—demonstrating its progressive and protective approach towards safeguarding the rights of citizen, irrespective of religion.

II. Maintenance to Wife under Islamic Jurisprudence :

Maintenance is a cornerstone of Islamic jurisprudence. It is representing the obligation of a husband to provide for his wife's financial needs during the marriage ,on termination of marriage and after the dissolution of marriage. This provision underscores the principles of social justice and gender equality within the framework of Islamic jurisprudence, ensuring that a wife's marital well-being is secured irrespective of her economic status or personal circumstances. In the context of Muslim society, the concept of maintenance is not merely a financial obligation but a fundamental right that upholds the dignity and respect of women. It is intended to protect wives from economic vulnerability and to ensure they can live with honour and without undue hardship. However, the practical realization of this right varies significantly across different legal systems and societal framework.

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I.Obligations of Husband Towards Wife:
Under Muslim personal law, the obligation of maintenance (nafqah) arises as an essential duty of the husband upon the solemnization of marriage. This duty is rooted in the ethical and legal framework of Islamic jurisprudence, which places significant emphasis on the financial responsibility of the husband toward his wife. The concept of maintenance is not merely a moral expectation but a legally enforceable right that safeguards the dignity, welfare, and economic security of the wife during the subsistence of the marriage and, in certain cases, even after its dissolution. The husband's obligations toward his wife are twofold. First, he is required to provide mahr (dower), which is a mandatory payment either promised or given at the time of the marriage contract (nikah) or upon its dissolution. This payment is a mark of respect and security for the wife. Second, and foremost for the continuity of marital life, is the obligation to provide nafqah—which includes food, clothing, shelter, and other basic needs. The objective is to ensure that the wife can lead a dignified and secure life, free from financial hardship, thereby promoting harmony and stabilibility within the marital relationship. Even after divorce husband is bound to provide maintenance during the period of iddat, whether she is economically sound or not. . When the wife is pregnant, the iddat period is extended till the birth of the child. This obligation of the husband comes to an end after the delivery of the child.

III. When Wife Can not Claim Maintenance

Under classical Muslim personal law, a wife's right to claim maintenance (nafaqah) from her husband depends on her fulfilling certain marital duties and living in accordance with the expectations of the marriage. This right is not automatic and may be lost if the wife is found to be nashiza, meaning disobedient without any valid reason. Disobedience (nashiza) can include refusing to live with the husband, leaving the matrimonial home without justification, or denying him marital rights without a lawful excuse like cruelty or mistreatment. Moreover, if the marriage itself is found to be irregular (fasid), such as one performed during the wife's iddat period, or void (batil), such as in cases involving prohibited relationships, the wife may not be entitled to maintenance. In addition, if a wife commits adultery or runs away with another man, she may lose her right to maintenance, as this behaviour is considered a serious violation of marital obligations.

3.Legal Underpinnings for Wife's Maintenance : under Indian legal framework there are various consitutional and statutory provisions which directly and indirectly protect the maintence rights of Muslim wife

I.The Constitution of India
It is the supreme legal authority and moral foundation of the Republic and Democratic India.It provides a comprehensive framework for governance rooted in the ideals of justice—social, economic, and political—as articulated in the Preamble. It guarantees Fundamental Rights to all individuals, serving as a protective shield for individual liberty, human dignity, and equality. Moreover it uphold the principles of equality before the law and equal protection of the law. Futhermore it ensures that no person is discriminated against on grounds of caste, religion, race, sex, or place of birth.In the context of women's rights, the Constitution is particularly progressive and inclusive. Article 15(1) prohibits discrimination by the State on the grounds of sex, while Article 15(3) empowers the State to make special provisions for women and children, recognizing historical and structural disadvantages faced by women in Indian society. Further, Article 16 guarantees equality of opportunity in matters of public employment, which is fundamental for the economic empowerment of women.

Thus, the Constitution of India is not merely a legal document but a dynamic and transformative charter. It not only provides a legal guarantee of equality and protection for women but also functions as a guiding force for the State in ensuring inclusive development, gender equity, and social justice across all sectors of public and private life.

II.Section 144 of Bhartiya Nagarika Suraksha Sanhita ,2023
The newly enacted Bharatiya NagarikSurakshaSanhita, 2023, which replaces the colonialera Criminal Procedure Code of 1973, introduces several modifications to India's criminal justice system. Section 144 of the Bharatiya Nyaya Sanhita corresponds to the previous Section 125 of the CrPC. Despite modifications to the section number and legal framework, the essential aim and objective of the provision remain same – to provide assistance to wives, children, and parents who are unable of selfsustenance. This transition represents a legal modification and the government's objective to modernize and Indianize criminal law while preserving its welfare principles and inclusive applicability across all religions, including Muslim

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women.Section 125 of the Criminal Procedure Code, 1973, is a secular and social welfare provision designed to provide maintenance to wives, children, and parents who are unable to maintain themselves, irrespective of their religion. It has played a significant role in safeguarding the maintenance rights of Muslim wives, including divorced women. Section 125 legally entitles a wife to receive maintenance from her husband in the absence of a codified provision under Muslim personal law. Till 1985 there was no controversy regarding the applicability of section 125 of the CrPC in respect to getting maintenance . The applicability of section 125 was challenged in the case of Shah Bano by taking the plea that it is not applicable in Muslim personal law. In landmark judgments, the Indian judiciary clarifies the applicability of Section 125 that a Muslim divorced woman who is not remarried and is unable to maintain herself is still entitled to claim maintenance under Section 125 CrPC. This interpretation reinforced the secular and welfare-oriented nature of the provision. With the enactment of the **Bhartiya Nagarika Suraksha Sanhita ,2023** , Section 125 CrPC has been replaced by Section 144, which retains the core principles of its predecessor. Section 144 continues to apply to Muslim women and ensures their right to maintenance under the criminal law framework, thus providing continued protection against destitution and economic hardship.

III.Muslim Women (Protection of Rights on Divorce) Act,1986

The Muslim Women (Protection of Rights on Divorce) Act of 1986 was enacted by the Indian Parliament in response to the historic Supreme Court decision in Mohd. Ahmed Khan v. Shah Bano Begum (1985). In this case, the Court determined that a Muslim divorced lady could seek maintenance from her husband under Section 125 of the Code of Criminal Procedure (CrPC), a secular statute that applies to all citizens, regardless of faith. Many praised the decision as a progressive interpretation that upheld gender fairness and the fundamental right to equal treatment. However, it sparked strong resistance from certain segments of the Muslim community, particularly religious conservatives, who saw the ruling as a violation of Muslim personal law and an infringement on the religious freedom provided by Article 25 of the Constitution.

In response to the widespread agitation and to quell the social and political unrest, the Government of India, led by then Prime Minister Rajiv Gandhi, enacted the Muslim Women (Protection of Rights on Divorce) Act in 1986. The prime objective this Act was to provide protection to the rights of Muslim women who have been divorced by, or have obtained divorce from, their husbands. However, the legislation was widely interpreted as a political compromise aimed at appeasing conservative religious sentiments. Critics argued that the Act effectively diluted the progressive principles laid down in the Shah Bano judgment by limiting the husband's financial liability to the iddat period and shifting the burden of maintenance to the woman's relatives or the Wakf Board thereafter. As such, the Act has remained a subject of intense academic and legal scrutiny for its implications on secularism, gender justice, and the interplay between personal laws and fundamental rights in India.

I.Highlights of the Act,1986

a.Applicability: The Act applies exclusively to Muslim women who have been divorced by, or have obtained divorce from, their husbands.

b. Maintenance during Iddat: A divorced Muslim woman is entitled to a reasonable and fair provision and maintenance from her former husband, but only during the iddat period (generally three menstrual cycles or three lunar months).

c. Mehr and Return of Property: The husband must pay the mehr (dower) amount agreed upon at the time of marriage and return all gifts and properties received by the wife before, during, or after the marriage.

d. Post-Iddat Maintenance: If a woman is unable to maintain herself after the iddat period, she can seek support from her relatives or, in their absence, from the State Wakf Board.

e. Option to be Governed by CrPC: Under Section 5, both parties can mutually opt to be governed by the provisions of Section 125–128 of the CrPC, which allow maintenance irrespective of religion.

f. Jurisdiction of Magistrate: A divorced woman can approach a First-Class Magistrate for enforcement of her rights under the Act.

II Shortcomings of the Act,1986:

Muslim Women (Protection of Rights on Divorce) Act, 1986 has been criticized by academics, judges, and civil society for its apparent departure from the Supreme Court's Shah Bano case (1985) gender-just principls.Followings are the controversial issues:

a. The Act undermines gender justice by limiting divorced Muslim women's maintenance rights to iddat. This clause reversed Shah Bano's progressive interpretation, which allowed divorced Muslim women to claim lifelong maintenance under Section 125 CrPC's secular requirements regardless of religion.

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b. Political Appeasement: The Act was meant to appease traditional Muslim populations. The law's communal emphasis on gender equality and secularism hurt Muslim women's right.

c. Language Ambiguity: The phrase "reasonable and fair provision and maintenance" in Section 3 of the Act is ambiguous. Some courts (e.g., Daniel Latifi v. Union of India, 2001) have interpreted this provision as extending after the iddat period, although the statutory text is vague, causing uncertainty and inconsistent interpretation.

d. Discrimination: The Act creates a legal mechanism for Muslim women. It denies Muslim women CrPC remedies available to other religions, violating Article 14's equality guarantee and Article 21's right to life.

4.**Case Study from Shah Bano to Mohd Abdul Samad:**

Indian judiciary plays a laudable role in developing and expanding the magnitude of maintenance rights of muslim wife in the absence of appropriate legislative provisions

ns. It is the long journey of the jucidiciary from Shah Bano(1985) to Mohd Abdul Samad (2024) to protect the maintenance rights of Muslim women who were living on the mercy of their husbands.

Mohd. Ahmed Khan v. Shah Bano Begum & Ors., AIR 1985 SC 945

Shah Bano Begum, a 62-year-old Muslim woman, was married to Mohd. Ahmed Khan, a well-established advocate. After more than four decades of marriage, Khan unilaterally divorced her by pronouncing triple talaq in 1978. Post-divorce, he ceased providing any maintenance. Left without means to sustain herself, Shah Bano approached the court under Section 125 of the Criminal Procedure Code, 1973 (CrPC)—a secular provision ensuring maintenance for wives, children, and parents who are unable to maintain themselves.

Mohd. Ahmed Khan contended that, according to Muslim Personal Law, his responsibility to maintain her ceased after the iddat period (a waiting period of approximately three months post-divorce), and he had already paid her mehr (dower) as per Islamic customs.

Legal Issues Involved:

* Does section 125 CrPC override personal laws in matters of maintenance?

* Is a divorced Muslim woman entitled to claim maintenance beyond the iddat period under Section 125 CrPC?

* Whether the payment of mehr can be considered a sufficient discharge of the husband's financial obligation?

After analysing the core issues, the Apex Court delivered a groundbreaking decision that upheld the right of a divorced Muslim woman to maintenance under Section 125 of the CrPC: The Court categorically declared that Section 125 is a secular and beneficial provision that is designed to safeguard individuals from destitution, irrespective of their religious beliefs. If the woman is unable to support herself, the obligation to pay maintenance under Section 125 CrPC extends beyond the iddat period. The court disregarded the argument that the husband's obligation under Section 125 is satisfied by the payment of mehr. It is crucial to note that the judgment included progressive references to the Quran, arguing that Islam, when interpreted in its true essence, promotes financial security and justice for women.The decision of this case was the compelling reason for the enactment of Muslim Women (Protection of Rights on Divorce) Act,1986.

Daniel Latifi v. Union of India, (2001) 7 SCC 740

This case has emerged in the aftermath of the controversial legislation, the Muslim Women (Protection of Rights on Divorce) Act, 1986, enacted in response to the Supreme Court's progressive judgment in the Shah Bano case (1985). The 1986 Act was widely criticized for curtailing the rights of divorced Muslim women by limiting the maintenance period to the iddat period, thereby seemingly nullifying the Shah Bano precedent. Daniel Latifi, a prominent legal scholar and was an advocate of Shah Bano's counsel, along with other petitioners, challenged the constitutional validity of the 1986 Act under Articles 14, 15, and 21 of the Indian Constitution. They contended that this Act is antithesis the principles of equality, non-discrimination, and the right to live with dignity. Moreover it is denied Muslim women the right to maintenance beyond the iddat period whereas this right available to women of other communities under Section 125 CrPC.

Issues Invoked in Case

* Does the Muslim Women (Protection of Rights on Divorce) Act, 1986 violate the Constitution's Articles

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14, 15, and 21 by discriminating against Muslim women?

*Can the Act be interpreted in a way that protects constitutional rights while respecting personal law?

* Is the Act genuinely denying divorced Muslim women the right to maintenance after the iddat period.

After evaluating main issues the Supreme Court upheld the constitutional validity of the 1986 Act but interpreted it progressively to harmonize it with constitutional values and the Shah Bano judgment. The Apex Court has observed that reasonable and fair provision and maintenance must extend beyond the iddat period. Further the Court has held that the husband's obligation is not confined to maintenance during iddat; rather, he must make a lump-sum provision during iddat that covers the woman's future needs. Moreover the Court reaffirmed that statutes must be interpreted in a manner consistent with constitutional guarantees. A literal reading that results in injustice or discrimination must be avoided. Therefore, the 1986 Act was upheld only on the condition that it is interpreted to include post-iddat maintenance. The judgment emphasized the constitutional mandate of gender equality and non-discrimination on ground of religion.

Shamim Ara v. State of U.P., AIR 2002 SC 3551

In this historical case, the Supreme Court of India delivered a significant judgment concerning the validity of talaq (divorce) under Muslim personal law. The case revolved around the appellant, Shamim Ara, who was allegedly divorced by her husband through a written statement in court. She challenged the legitimacy of the divorce and claimed maintenance under Section 125 of the Criminal Procedure Code (CrPC). The prime legal issue was whether a mere written statement claiming that the husband had already pronounced talaq was sufficient to constitute a valid divorce under Muslim law.

The key Observations and Ruling:

* Invalidation of Unilateral and Arbitrary Talaq: The Supreme Court held that a mere assertion of talaq in a written statement without proof of prior communication or procedural compliance does not amount to a valid divorce. The Court emphasized that Muslim law does not sanction arbitrary, unilateral divorce at the whim of the husband, especially when it is not preceded by attempts at reconciliation.

*Requirement of Clear Pronouncement and Reasonableness: The Court ruled that talaq must be pronounced clearly, unequivocally, and in a reasonable manner as per the Quranic mandate. The absence of requisite requirements renders the divorce invalid in law.

* Protection of Women's Rights: By rejecting the arbitrary use of talaq as a means to escape maintenance obligations, the Court safeguarded the rights of Muslim women against abuse and affirmed their entitlement to dignity, justice, and legal recourse. The judgment reaffirmed that Section 125 CrPC is a secular and gender-just provision applicable to all women, regardless of religion.

* Impact on Personal Law Jurisprudence: This judgment laid the groundwork for further reformative interpretation This judgment laid the groundwork for further reformative interpretations of Muslim personal law in India. It curbed the misuse of instant triple talaq (talaq-e-biddat) and emphasized procedural fairness and constitutional morality in matrimonial matters.

Iqbal Bano v. State of Uttar Pradesh, AIR 2007 SC 2215

In this case, the appellant, Iqbal Bano, sought maintenance from her husband under Section 125 of the Code of Criminal Procedure,1973. Her husband contended that, following the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, a Muslim woman could not claim maintenance under Section 125 CrPC and that he had divorced her three decades earlier by pronouncing talaq.The Supreme Court has addressed key issues:

* Can a non-divorced Muslim lady claim maintenance under Section 125 CrPC despite the 1986 Act?

* Whether a written reply asserting 30 years of talaq is a legal divorce under Islamic law.

* Whether a Magistrate can treat an application under Section 125 of the CrPC as one under Section 3(2) of the Muslim Women (Protection of Rights on Divorce) Act, 1986

After reviewing the main issues the supreme court has held that Section 125 CrPC covers Muslim women also and applies to all citizens regardless of faith. It further emphasized that the 1986 Act applies only to divorced Muslim women and does not prevent married Muslim women from claiming

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maintenance under Section 125 CrPC. The Court decided relying upon the decision of Shamim Ara that a written statement about pronouncing talaq decades previously did not constitute a valid Islamic divorce. A genuine talaq must be explicit and reasonable, with communication and reconciliation evidence. Furthermore the Court has held that Magistrate can treat an application under Section 125 CrPC as one under Section 3(2) of the 1986 Act, especially since the legislation protects women's rights.

Shahbana Bano v. Imran Khan , AIR 2010 SC 305

In this case Shabana Bano, married to Imran Khan, was allegedly abused, ending their marriage. She was divorced by her husband. After divorce, she claimed maintenance for herself and her minor child under Section 125 of the Code of Criminal Procedure (CrPC), 1973, claiming that she could not support herself. The Family Court established under Family Courts Act,1984 decided the case. It has held that the husband was only liable during iddat period under the Muslim Women (Protection of Rights on Divorce) Act, 1986.Further the High Court has upheld the decision of Family Court. The appellant appealed to the Supreme Court . The key issues before the court were:

*Can a divorced Muslim lady receive Section 125 CrPC maintenance after iddat?

* Can the Family Court hear a Section 125 CrPC suit if the Muslim Women (Protection of Rights on Divorce) Act, 1986 exists?

*How do Family Courts under the Family Courts Act, 1984, resolve such disputes?

The Supreme Court has analysed the main issues and observed that Section 125 of the Criminal Procedure Code, 1973, is a secular and welfare-oriented provision unaffected by community personal laws. It protects women against poverty and vagrancy regardless of religion. The court recognized the woman's entitlement to maintenance after divorce, provided she has not remarried and is unable to support herself. Moreover, the Court observed that a reasonable and fair provision under Section 3 of the 1986 Act does not bar a woman from seeking relief under Section 125 of the CrPC. Furthermore, the court has highlighted that the Family Court, established under the Family Courts Act, 1984, provides fast, cheap, and family-sensitive dispute resolution. The Supreme Court reiterated that family courts can hear Section 125 CrPC claims and must interpret the law in accordance with constitutional values, including gender justice. The court stressed that family courts are not required to apply personal laws strictly if doing so would be unfair or violate Articles 14 and 15. Section 125 CrPC allows divorced Muslim women to claim maintenance after the iddat period. Gender fairness and constitutional interpretation were violated when the Family Court limited maintenance to the iddat period. Unless Section 3 of the 1986 Act properly protects her maintenance right, the wife can claim under Section 125 of CrPC.

Shayara Bano v. Union of India & Others, AIR 2017 SC 4609

Shayara Bano was the first Muslim woman who waged a legal battle against the diabolic practice of instant triple talaq from Uttarakhand. The matter was directly brought before the Supreme Court of India through a writ petition under Article 32 of the Constitution. She has challenged the constitutionality of the practice of instant triple talaq after her husband divorced her by pronouncing "talaq" three times in one sitting. She contended that this practice was arbitrary and violated her fundamental rights under Articles 14 (Right to Equality), 15 (Prohibition of Discrimination), and 21 (Right to Life and Personal Liberty) of the Indian Constitution.

Legal Issues involved

*Whether instant triple talaq constitutes an essential religious practice protected by Article 25.

*whether practice of Triple Talaq violates Muslim women's fundamental rights under Articles 14, 15, and 21?

After evaluating the key issues, a five-judge Constitution Bench of the Supreme Court has issued a divided ruling (3:2) pronouncing instant triple talaq unlawful. Justices Rohinton Fali Nariman, Uday Umesh Lalit, and Kurian Joseph shared the majority opinion: The Bench ruled that instant triple talaq is not an essential religious practice in Islam and so is not protected by Article 25. Moreover this practice was declared unconstitutional as it is arbitrary and infringes Muslim women's rights, as granted under Articles 14,15 and 21.Furthermore it was highlighted that this practice has been abolished in various Islamic countries, suggesting that it is not part of the religion. Minority Opinion (Chief Justices J.S. Khehar and S. Abdul Nazeer) recognized that, while the practice is distasteful, it is protected by Article 25 as a fundamental religious practice. It was suggested that instead of the court rejecting the practice, the legislators pass a law to control it. Proposed a six-month injunction against the practice to allow Parliament to pass law on the issue.This decision was a stepping stone towards the journey to achieve the principles of equal protection of law and gender equanimity. It emphasized that personal legislation must adhere to constitutional principles, particularly

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those governing fundamental rights. The ruling emancipated Muslim women and established a precedent for considering personal laws through the perspective of constitutional morality. The bold decision of this case was the backbone to enact the Muslim Women (Protection of Rights on Marriage)Act, 2019.which declared the practice of Triple Talaq void, illegal and punishable offence.

Mohd. Abdul Samad v. State of Telangana & Anr. (2024)

In this case, the appellant, Mohd. Abdul Samad, challenged a family court's decision directing him to pay maintenance to his former wife under Section 125 of the Criminal Procedure Code (CrPC). The family court had awarded □20,000 per month as maintenance. Subsequently, the Telangana High Court reduced the amount to □10,000 per month but upheld the wife's right to claim maintenance under Section 125 CrPC. Against the decision High Court, the appellant has approached to the Supreme Court and contended that after divorce, a Muslim woman's rights to claim maintenance are governed exclusively by the Muslim Women (Protection of Rights on Divorce) Act, 1986 (MWA), and not by the secular provisions of Section 125 CrPC.

Legal Issues:

1. Whether a divorced Muslim woman can claim maintenance under Section 125 CrPC despite the provisions of the ,Act 1986.
2. Whether the Act,1986 overrides the general provisions of Section 125 CrPC.

In this case the Supreme Court dismissed the appeal and upheld the wife's right to claim maintenance under Section 125 CrPC. The Court made several significant observations and reaffirmed that Section 125 CrPC is a secular law applicable to all women, irrespective of their religion. It is designed to prevent destitution and vagrancy by providing a quick and efficient remedy for maintenance. Furthermore the Court has held that the Act,1986 does not override Section 125 CrPC. Instead, it provides an additional remedy. A divorced Muslim woman can seek maintenance under either or both provisions. The remedies under the MWAct ,1986 and Section 125 CrPC are not mutually exclusive. The Apex Court further has emphasized that the right to maintenance is embedded in the constitutional philosophy of social justice and highlighted that maintenance is not charity but a right, and denying it would violate the principles of gender equality and dignity enshrined in the Constitution. The Court noted that even in cases where divorce is pronounced through instant triple talaq (declared unconstitutional and criminalized by the Muslim Women (Protection of Rights on Marriage) Act, 2019), the woman is entitled to claim maintenance under Section 125 CrPC. Further the Justice Masih has highlighted that both the MWAct,1986 and Section 125 CrPC aim to protect the rights of divorced Muslim women. A harmonious interpretation ensures that women are not left without remedies due to procedural technicalities or conflicts between personal and secular laws.

This judgment is a landmark in affirming the rights of divorced Muslim women to claim maintenance under secular law. It clarifies the legal position that the MWA does not preclude the application of Section 125 CrPC. The decision reinforces the constitutional commitment to gender justice and equality, ensuring that personal laws do not undermine fundamental rights. This judgment is a landmark in affirming the rights of divorced Muslim women to claim maintenance under secular law. It clarifies the legal position that the MWA does not preclude the application of Section 125 CrPC. The decision reinforces the constitutional commitment to gender justice and equality, ensuring that personal laws do not undermine fundamental rights. This judgment is a landmark in affirming the rights of divorced Muslim women to claim maintenance under secular law. It clarifies the legal position that the MWAct,1986 does not bar the application of Section 125 CrPC. The decision reinforces the constitutional commitment to gender justice and equality.

IV. Conclusion

The journey from Shah Bano (1985) to Mohd. Abdul Samad (2024) reflects the progressive role of the Indian judiciary in protecting the rights of Muslim women .Through these landmark decisions, the courts have made it clear that no personal law can override the fundamental rights guaranteed by the Constitution. In Shah Bano, the Supreme Court firstly recognized that Muslim wife is legally entitled to claim maintenance under Section 125 CrPC, which is a secular and welfare-based provision. The Shah Bano judgment was a watershed moment in the fight for maintenance right of Muslim women in India. Despite the introduction of the Muslim Women (Protection of Rights on Divorce) Act, 1986, the Court has continued to uphold that a divorced Muslim woman can seek maintenance if she is not adequately provided under the Act 1986. This principle was powerfully reaffirmed in the Mohd. Abdul Samad case also, where the Court emphasized

that justice, equality, and dignity must guide the interpretation of all laws. These decisions show how the judiciary has consistently acted as a guardian of constitutional values and ensures that religion does not become a barrier to justice. The courts have strengthened the legal position of Muslim women and always taken proactive steps towards gender justice and social equality in India.

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