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SECTION 125 OF CRPC

Introduction-

The grant of maintenance is a measure of social fairness in itself. It is a man's responsibility to support his family, including wife, children, parents, and close relatives, who are unable to support themselves. The goal of maintenance is to prevent immorality, destitution, and improve the economic conditions of women and children. The Right to Maintenance stems from the concept of an Undivided Family, where the head of the family is responsible for supporting those who are financially unable to meet their fundamental needs. Maintenance was introduced to help individuals live independently. Maintenance refers to a person's obligation to their dependent family, which binds both the individual and property.

Maintenance governed by personal laws

The aim of maintenance is to prevent immorality and destitution while also improving the economic status of women and children. According to Section 21 of the Hindu Adoptions and Maintenance Act (HAMA), 1956, the following individuals are eligible for maintenance of wife, widowed daughter-in-law, children, aged parents, and dependents.

In contrast, under Muslim law, the persons entitled to support are wives, small children, needy parents, and other needy relationships within the banned degrees. The Muslim

Law of Maintenance is founded on Muslim personal laws and legal enactments such as the Indian Majority Act, 1875, the Criminal Procedure Code, 1973, and the Muslim Women (Protection of Rights on Divorce) Act, 1986.

The provisions of Section 125, Cr. P.C., 1973 apply and must be enforced regardless of the personal law under which Indian citizens are governed. Simultaneously, it must be noted that the personal laws of the parties involved, Hindus, Muslims, and Christians, must be carefully considered because they are vital in determining the legality of the marriage connection, if any (existing or not), and so cannot be completely ignored.

Maintenance under Section 125 of CrPC

The provisions under the Code of Criminal Procedure, 1973 binds a person to perform the moral obligation which he is duty bound to the society in respect of his wife, children and parents. The duty is by far legal and binding upon the person. Provisions of CRPC are very much secular, harmless and all-pervading in nature and are applicable to all communities in India, irrespective of religion, caste and creed. The provisions of Section 125, CRPC are enforceable whatever may be the personal law by means of which the respective persons concerned are guided and governed.

Maintenance can be claimed under the personal laws of people of different faiths, and proceedings under such personal laws are civil in nature, whereas proceedings initiated under Section 125 of The CRPC are summary in nature and apply to everyone regardless of caste, creed, or religion.

The primary principle behind the position of maintenance under Section 125 of the CRPC is that no wife, young children, or elderly parents should be devoid of and subjected to absolute want, such that they are tempted to commit crimes, etc. Section

125 of the CRPC authorises a Magistrate of the First Class to take summary action to avoid poverty.

The term "maintenance" is not defined in Chapter IX of the Code of Criminal Procedure, 1973. The provisions of Section 125 of Chapter IX of the Cr.P.C., 1973 promote social justice and were specifically established to protect the interests of women and children, as well as elderly and infirm parents.

Legal and Constitutional Framework

Maintenance provisions are governed by Article 15(3) of the Indian Constitution, as well as Article 39. Section 125, Cr. P.C., 1973 states that it is a person's fundamental and natural duty to support his wife, children, and elderly parents while they are unable to do so. The provisions of Section 125, Cr. P.C., 1973 apply and must be enforced regardless of the personal law under which Indian citizens are governed.

Preventive Nature of Section 125

The primary goal of Section 125, Cr. P.C., 1973, is to provide assistance to deserted and poor spouses, neglected and abandoned children, and vulnerable, elderly, and disabled parents. This supply so provides social service and a social objective of well-being. The Magistrate's jurisdiction is preventive in nature, rather than penal or punitive.

No wife, kid, or parent may be left beggar and destitute on society's scrap heap, lured to commit crime or to tempt others to commit crime in their place. One's duty to sustain his own wife and small children is a legislative requirement, and a contract that entirely waives the right cannot be considered lawful.

Conclusion

Maintenance laws in many communities in India have been specifically designed to safeguard the weaker sectors of society, such as women, children, elderly and infirm parents, and some close relatives who do not have their own income and are unable to support themselves. It should also be noted that maintenance laws fall within the constitutional scope of Article 11 of 15(3).

Maintenance provisions have been judged to be mainly in accordance with the Indian Constitution, as they do not violate Article 14 or Articles 25 and 26. These laws are meant to serve a social purpose. Their goal is to compel a man to fulfil the moral commitments he owes to society as a whole in regard to his spouse, children, and parents. These provisions seek to ensure that the neglected poor wife and children do not become beggars and destitute on the scrap heap of society, forcing them to live a life of vagrancy, crimes, and immorality for their very survival.

References-

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Code of Criminal Procedure, 1973

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