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No Maintenance Without a Valid Marriage: Allahabad High Court Reiterates Statutory Limits of Section 125 Cr.P.C.

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Introduction

The Allahabad High Court, in ***Madhu @ Aruna Bhajpai v. State of U.P***.[1], reaffirmed the strict statutory limits governing maintenance claims under *Section 125 of the Code of Criminal Procedure, 1973*[2]. The Court held that prolonged cohabitation or social recognition of a relationship cannot override clear statutory provisions, especially where both parties have subsisting prior marriages. The judgment underscores the interaction between *Section 125 Cr.P.C.* and *the Hindu Marriage Act, 1955*[3], clarifying that equitable considerations cannot be used to dilute explicit legislative mandates.

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Factual Background (Brief)

The revisionist–applicant, Smt. Madhu alias Aruna Bhajpai, filed a claim for maintenance under *Section 125 of the Code of Criminal Procedure, 1973*, asserting that she had entered into a marital relationship with the second respondent and had lived with him as his wife for nearly ten years. She contended that her earlier marriage had been dissolved through a mutual family arrangement and a notarised agreement, following which she married the respondent in 2009.

However, the record disclosed that her first marriage, solemnised in 1992 in accordance with Hindu rites, had never been legally dissolved. Although she had initiated divorce proceedings under *Section 13 of the Hindu Marriage Act, 1955*, the petition was dismissed for default, and no formal decree of divorce was ever granted. As a result, her earlier marriage continued to subsist in the eyes of law.

It was further revealed that the respondent also had a subsisting prior marriage at the time of the alleged second marriage. Despite this, the parties cohabited for several years, during which the applicant was socially recognised as the respondent’s wife and was even recorded as such in certain official documents. Subsequently, alleging cruelty and desertion, she approached the Family Court seeking maintenance.

By its order dated 12 February 2024, the Family Court dismissed the application on the ground of non-maintainability, holding that the applicant did not fall within the definition of “wife” under Section 125 Cr.P.C. Aggrieved by this decision, the revisionist approached the Allahabad High Court by way of a criminal revision.

Core Statutory Provisions

Section 125 Cr.P.C. – Meaning of “Wife”

Section 125 of the Code of Criminal Procedure, 1973 provides a summary remedy aimed at preventing destitution and vagrancy. However, its applicability is contingent upon the claimant falling within the categories expressly recognized under the provision. The term “wife” has been consistently interpreted to mean a legally wedded wife, subject only to limited judicial exceptions.

The Allahabad High Court emphasized that the beneficial nature of Section 125 cannot be stretched to override clear statutory requirements. Where the marital relationship itself is void in law, a claimant cannot invoke Section 125 merely on the basis of prolonged cohabitation or social acknowledgment. Judicial sympathy, the Court observed, cannot replace compliance with statutory conditions.

Sections 5(i) and 11, Hindu Marriage Act – Void Marriages

Section 5(i) of the Hindu Marriage Act, 1955 mandates that neither party should have a living spouse at the time of marriage. A breach of this condition renders the marriage void *ab initio* under Section 11.

Applying these provisions, the Court found that both parties had subsisting prior marriages when they entered into the alleged second marriage. Consequently, the relationship was void in law and incapable of conferring the legal status of husband and wife. The Court clarified that a void marriage does not create enforceable matrimonial rights, including the right to claim maintenance under Section 125 Cr.P.C.

Section 13, Hindu Marriage Act – Requirement of Judicial Divorce

The Court rejected the contention that a marriage can be dissolved through informal means such as family settlements, mutual agreements, or notarised documents. It reiterated that under Hindu law, dissolution of marriage can only be effected through a decree of divorce granted by a competent court under *Section 13 of the Hindu Marriage Act, 1955*.

Since the applicant's earlier divorce petition had been dismissed and no decree was granted, her first marriage continued to subsist in the eyes of law. The Court held that extra-judicial arrangements have no legal validity and cannot form the basis for claiming rights arising out of a subsequent relationship.

Limits of Equitable Interpretation

While acknowledging that courts have, in certain cases, adopted a purposive interpretation of Section 125 Cr.P.C. to protect vulnerable claimants, the High Court clarified that such an approach is not available where the claimant is aware of an existing valid marriage. Extending relief in such cases would directly contradict the statutory framework of the Hindu Marriage Act.

Accordingly, the Court reaffirmed that equitable considerations must operate within the confines of law, and cannot be used to dilute express statutory prohibitions.

Distinguishing Badshah v. Urmila Badshah Godse

The revisionist placed reliance on ***Badshah v. Urmila Badshah Godse***[4], where the Supreme Court adopted a purposive interpretation of *Section 125 Cr.P.C*. to extend protection to an innocent woman.

However, the High Court distinguished this precedent on clear legal grounds. In *Badshah*, the claimant's earlier marriage had already been dissolved, and she had been misled by the husband regarding his subsisting marriage. In contrast, in the present case, the revisionist herself acknowledged the existence of her prior marriage and had even initiated divorce proceedings, which remained unresolved.

On this basis, the Court held that the equitable expansion of *Section 125 of the Code of Criminal Procedure, 1973*, as applied in *Badshah*, was not applicable to the present facts.

Key Legal Principles Reaffirmed

- Section 125 Cr.P.C. is a welfare provision, but it does not override or substitute personal law frameworks.
- A void marriage under *Section 11 of the Hindu Marriage Act, 1955* does not confer any spousal rights, including the right to maintenance.
- Dissolution of marriage can only be effected through a judicial decree, not through private agreements or informal arrangements.
- Prolonged cohabitation or social recognition cannot validate a relationship that is void in law.
- Expanding the scope of Section 125 Cr.P.C. to include such relationships would undermine the statutory scheme and dilute the legal sanctity of marriage.

Conclusion

The Allahabad High Court's ruling in Madhu @ Aruna Bhajpai v. State of U.P. reaffirms that the right to maintenance under Section 125 of the Code of Criminal Procedure, 1973 is strictly governed by statutory requirements and cannot be claimed independently of personal law. Although the provision serves a welfare-oriented purpose, its application depends on the claimant fulfilling the legal status of a "wife," as determined under the Hindu Marriage Act, 1955.

By applying Sections 5(i), 11, and 13 of the Act, the Court held that a marriage entered into during the subsistence of a prior valid marriage is void *ab initio* and does not create enforceable matrimonial rights, including the right to maintenance. The judgment carefully distinguishes between cases where equitable relief may be justified due to deception, and those where the claimant is herself bound by an existing marital relationship.

The decision underscores that equitable considerations cannot override explicit statutory prohibitions, and that informal arrangements or prolonged cohabitation cannot substitute a legally valid marriage. In doing so, the Court upholds both the legislative intent of Section 125 Cr.P.C. and the legal sanctity of marriage under Hindu law.

For more details, write to us at: **contact@indialaw.in**

1. CRIMINAL REVISION No. – 2099 of 2024 ??
2. Section 125 of the Code of Criminal Procedure, 1973 ??
3. Hindu Marriage Act, 1955 ??
4. AIR 1988 SC 644 ??

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