Subject Name: Code of Criminal Procedure
Topic Name: Maintenance under CrPC

Table of Content:-

Introduction 1
Statutory Provisions and Societal Impact 1
Constitutional Support 1
Section 125 CrPC 2
Judicial Interpretations 2

Introduction

Maintenance is fundamentally viewed as a means of support or sustenance, crucial in various religious doctrines governing marriage. Despite the lack of a precise definition, the right to claim maintenance is primarily based on the assumption that the claimant lacks sufficient means to sustain themselves.

It typically covers the costs of life's essentials, aiming not just for survival but ensuring a decent quality of life. Courts consider several factors when determining maintenance amounts, such as property holdings, the earning capacity of the husband, their conduct, and other relevant circumstances. This evaluation takes into account the lifestyle enjoyed during the marriage, ensuring that the maintenance provided is both fair and just.

Statutory Provisions and Societal Impact

The Maintenance Act encompasses provisions that address familial and social responsibilities within multiple legal frameworks, including the Criminal Procedure Code of 1973 (Sections 125 to 128), the Hindu Marriage Act of 1955, and others.

These laws are designed to enforce the moral obligations of individuals, particularly men, towards their spouses, children, and parents. The aim is to prevent the dire consequences of neglect, such as vagrancy, moral decay, and criminality, by providing a straightforward and expeditious remedy to protect neglected wives and children from abandonment and destitution.

Constitutional Support

Chapter IX of the Criminal Procedure Code of 1973 outlines the procedural framework for maintenance, supported by Articles 15(3) and 39 of the Indian Constitution. These articles allow the state to make special provisions for women and children and ensure that citizens have access

to adequate livelihoods and are protected from exploitation and abandonment. This legislative synergy is crucial in safeguarding the welfare and rights of vulnerable populations.

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Section 125 CrPC

Section 125 of the CrPC underscores the obligation of individuals to provide for their spouses, children, and parents if they have the means. It addresses various scenarios of neglect or refusal to maintain, imposing a duty on:

- Husbands who neglect wives incapable of supporting themselves.
- Parents who neglect minor or adult children with disabilities.
- Children who neglect elderly parents unable to sustain themselves.

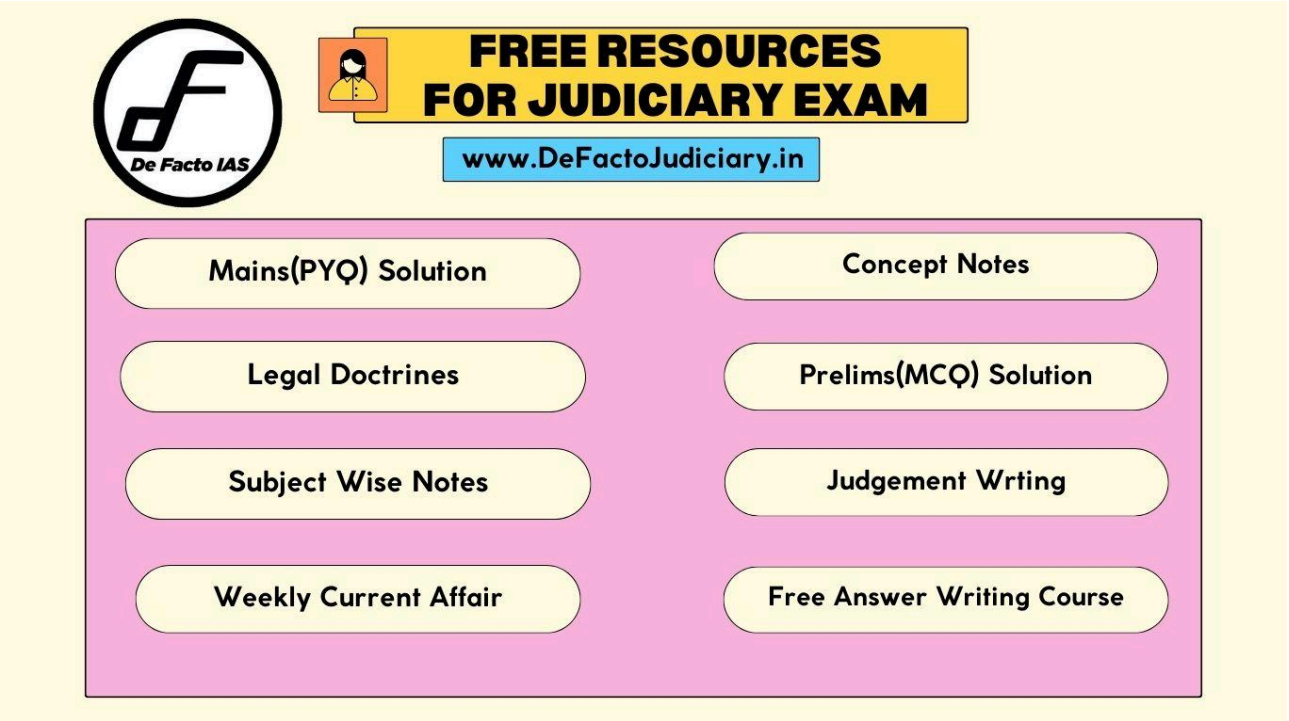
The provisions under Section 125 are separate from those under personal laws, allowing claims under both, with the magistrate considering existing maintenance orders in their decisions.

Judicial Interpretations

In the case of **Shailja & Anr. v Khobbanna, (2018) 12 SCC 199**, the Supreme Court ruled that the mere fact that a wife is capable of earning does not automatically justify a reduction in the maintenance awarded by the Family Court.

Instead, the Court must assess whether the wife's income is adequate to maintain a lifestyle consistent with that of her husband in their matrimonial home, as established in the precedent of **Chaturbhuj v Sita Bai, (2008) 2 SCC 316**. The concept of sustenance transcends mere survival, as affirmed in V**ipul Lakhanpal v. Smt. Pooja Sharma, 2015 SCC OnLine HP 1252.**

In **Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715**, where the wife possessed a postgraduate degree and worked as a teacher, the Supreme Court rejected the husband's argument that her earnings rendered her ineligible for maintenance. The Court maintained that the wife's employment and income do not automatically invalidate her claim for financial support.



Moreover, in **Swapan Kumar Banerjee v. State of W.B., (2020) 19 SCC 342,** the Supreme Court upheld the right of a divorced wife, even one divorced on grounds of desertion, to claim maintenance under Section 125 of the Criminal Procedure Code. Additionally, the Court affirmed that the timing of the petition for maintenance, even after the husband's remarriage, does not affect the wife's entitlement, as it is her prerogative to determine when to seek maintenance.