

The Hindu, Chennai, 29 Nov 2007

Deserted wife can claim maintenance: apex court

If her earnings are insufficient to meet her needs: Bench

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NEW DELHI Where the personal income of a deserted wife is insufficient to meet her needs she can claim maintenance from her husband under Section 125 of the Code of Criminal Procedure, the Supreme Court has held.

"The test is whether the wife is in a position to maintain herself in the way she was used to in the place of her husband," said a Bench of Justices Arijit Pasayat and Aftab Alam.

"In an illustrative case where [a] wife was surviving by begging, would not amount to her ability to maintain herself. It can also be not said that the wife has been capable of earning but she was not making an effort to earn. Whether the deserted wife was unable to maintain herself or not has to be decided on the basis of the material placed on record," the Bench said.

- **Object not to punish a person for his past neglect, but to prevent vagrancy**
- **Section 125 Cr.PC has been specially enacted to protect women and children**

Writing the judgment, Mr. Justice Pasayat pointed out that the wife should be in a position to maintain a standard of living which was neither luxurious nor penurious but what was consistent with the status of a family. The Bench said, "The expression unable to maintain herself [in Section 125 Cr.PC] does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 Cr.PC."

The Bench said, "The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who

are unable to support themselves and who have a moral claim to support. Section 125 Cr.PC is a measure of social justice and is specially enacted to protect women and children."

Speedy remedy

The Bench was of the view that the section envisaged a speedy remedy for the provision of food, clothes and shelter to the deserted wife.

"It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves."

The Bench said, "Under the law, the burden is placed in the first place upon the wife

to show that the means of her husband are sufficient. Second, there is an inseparable condition which has to be satisfied, that the wife was unable to maintain herself. These two conditions are in addition to the requirement that the husband must have neglected or refused to maintain his wife."

In the instant case, Chaturbhuj had deserted his wife Sita Bai. On an application from Sita Bai, the trial court ordered the husband to pay her Rs.1,500 a month as maintenance. His revision petition against this order was rejected by the Indore Bench of the Madhya Pradesh High Court. The present appeal is directed against this order. He sought to quash the order contending that he need not pay any maintenance amount as his wife was in a position to maintain herself with her earnings.

The apex court dismissed his appeal.