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RESEARCH ARTICLE

STUDY ON LAW RELATING TO MAINTENANCE IN INDIA WITH SPECIAL REFERENCE TO PERSONAL LAWS AND CRIMINAL PROCEDURE CODE.

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Abstract

Marriage also called matrimony or wedlock is a socially or ritually recognized union between spouses that establishes rights and obligations between them, between them and their children, between them and their in-laws. When defined broadly, marriage is considered as a cultural universal, the legal status, condition, or relationship that results from a contract by which one man and one woman, who have the capacity to enter into such an agreement, mutually promise to live together in the relationship of husband and wife in law for life, or until the legal-termination of the relationship. Entering into a marriage contract changes the legal status of parties giving husband and wife new rights and obligations.

The traditional principle upon which the institution of marriage is founded is that a husband has the obligation to support a wife and that a wife has the duty to serve. Individuals who seek to alter marital rights and duties are permitted to do so only within legally prescribed limits. The obligation on the part of the husband to maintain his wife continues even after the annulment of marriage. Maintenance which is synonymous to spousal support or alimony is a periodic monetary sum paid by one spouse for the benefit of the other upon separation or dissolution of the marriage. Moreover, it is a legal as well as social obligation on the part of the husband.

The benevolent jurisprudence of maintenance is deeply rooted in the humanistic approach towards social and individual morality. It is secular and social in character, it is inspired by the noble aim of avoiding vagrancy and destitution. The concept of maintenance emanates from the tenets of social ethics and personal relations.

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Introduction:-

Whenever the matrimonial relations strains, it becomes inevitable for the parties to approach the Court for relief. Litigation is very expensive and time consuming process. In this process the plight of women becomes very deplorable and pathetic and they face immediate problems due to lack of proper awareness and lack of independent financial means to maintain herself and the children. These are the provisions, in personal law, for providing financial support to the woman during the pendency of the suit in the court of law, and after the suit have been

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decided by the court. The right of women to maintain at various stages of life; before and after the marriage, after breakdown in marriage and after the death of the husband, vary as per the personal laws governing them.

Alimony and maintenance are terms of English Matrimonial Law and have technical meaning. According to *Corpus Juris*, "alimony" is defined as the allowance required by the law to be made to the wife out of her husband's estate for her support either during the matrimonial suit or on its termination, where the fact of marriage is established and she proves herself entitled to separate maintenance. In English Law in recent years the alimony and maintenance have developed into, what is called "financial provisions" and "property adjustments" and maintenance may be claimed by either party against the other.

It is noteworthy that Hon'ble Supreme Court has held that maintenance does not mean bare starving. Maintenance in the case of *Ruma Chakraborty vs. Sudha Rani Benarjee*¹. It was observed that a perusal of Section 3(b) of the Hindu Adoptions and Maintenance Act, 1956 would clearly show that the intention of the legislature by including food, clothing, residence etc. was to provide a real maintenance and not a bare or starving maintenance. The intention of the legislature is further indicative from the words "also the reasonable expenses of appearing in clause (ii) of Section 3(b) of Hindu Adoption and Maintenance Act", clearly meaning thereby that an unmarried daughter besides the expenses of food clothing, residence etc. is also entitled to the expenses of and incident to her marriage. The intention of the legislature becomes absolutely clear and lucid from the heading and contents of Section 23 of the Hindu Adoptions and Maintenance Act, 1956 which speaks of amount of maintenance. Therefore, it can safely be said that what is implicit under Section 3 is made explicit in Section 23 of Hindu Adoption and Maintenance Act.

Referring to the definition of 'maintenance' and 'support' in Black's Law Dictionary, the Supreme Court in *Rajesh Burman vs. Mitul Chatterjee*², observes that the terms maintenance and support include means of living, food, clothes, shelter, recreation, health, proper care, nursing and medical assistance in times of sickness. The Court also observed that the earlier judgments of the court clearly hold that 'maintenance' and 'support' were synonymous and constitutes the "act of maintaining", including residence, food, recreation, education and medical treatment.

The law of maintenance and alimony may be discussed under the following two heads:

1. Interim maintenance and expenses of the proceedings;
2. Permanent maintenance and alimony.

Law must zealously safeguard the right of maintenance of a wife. Every effort must be made to ensure that the wife does not lose her right to maintenance for petty reasons. She already loses the best of her life when the husband stops the flow of her natural love and affection towards the wife, but if she loses the right to maintenance also, she will have nothing but frustration for which the society and law can be held responsible.

It cannot be denied that the concept and provisions for maintenance are incomplete without adequate provisions for residence. Maintenance must be given a rather holistic view and provision for residence should be rather considered a part of maintenance.

Under the Hindu Adoption and Maintenance Act, 1956, the Hindu wife would be entitled to live separately from her husband without forfeiting her claim to maintenance if there is any cause justifying her living separately. Though the Hindu Law provides for a separate residence for the wife under such grounds, when a Muslim husband fails or neglects to provide maintenance to his wife for a certain period the wife has a right to claim dissolution of marriage along with maintenance till she remarries under section 2(ii) of the Dissolution of Muslim Marriages Act 1939. Broadly seen in a socio legal context, to do away with the mandate of Supreme Court in the case of *Mohammed Ahmed Khan vs. Shah Bano Begum*³, the Parliament of India in the year 1986 enacted the law called "Muslim Women (Protection of Rights on Divorce) Act, 1986". But unfortunately there remained some fallacies both in statute and its interpretation, which needs to be looked into and are taken care of by most of the High Courts and the Supreme Court.

In 2001, in *Daniel Latifi's*⁴ case Supreme Court upheld the constitutionality of Muslim Women (Protection of Rights on Divorce) Act, 1986 and held that remedy provided therein served a purpose, Section 125 of Code of Criminal

¹ RCR (Civil) 2005 (4), page 394, (SC)

² 2008 (14) SCALE 372

³ 1985 AIR 945, 1985 SCR (3)844

⁴ Daniel Latifi vs. UOI(2001(7)SCC740)

Procedure would otherwise serve and also that personal law was reasonable basis for classification. But still it remains debatable issue whether the remedy under the 1986 Act is in reality justified and adequate enough?

Often it is perceived that the 1986 Act and its interpretations are not only against Muslim Personal Law but also against the right to equality and the directive for Uniform Civil Code enshrined in the Constitution of India. Thus, it becomes the need of the hour to amend Section 5 of the 1986 Act and to effectively make available to divorced Muslim woman the secular remedy under Section 125 of the Code of Criminal Procedure, hence reviving the mandate of Supreme Court in its decision in 1985 in Shah Bano's case (supra).

The remedies provided to a wife under the Hindu Law to claim maintenance from her husband are rooted in four different enactments, which will be dealt with at length in the Research work. The judicial pronouncements by various High Courts and Supreme Court are studied here in order to examine the efficacy of these legal provisions and effort is made to critically evaluate the judicial decisions.

“Difficulties of a litigant in India begin when he has obtained a decree” is a very apt expression of situation that prevails in our country regarding execution of orders and decrees. In view of this, Matrimonial Courts have found some other ways of enforcing the orders. But are these ways adequate enough to impart relief to the destitute?

While passing orders for the interim and permanent maintenance, the court gives paramount consideration to the “welfare of the children”. It is submitted that in order to meet the huge expenses involved in acquiring professional degrees and higher education the age limit of children for claiming maintenance should be increased till the child completes his education and becomes capable of earning according to his qualification.

The payment of huge amount of court fee under the Court Fee Act, 1870 renders the remedy u/s 18 of Hindu Adoption and Maintenance Act virtually in effective for which immediate legislative measures must be taken to ease out the situation.

The problem of maintenance of a second wife is very grave and lawmakers should make clear provisions to protect the rights of those women who have been ‘duped’ into second marriages so as to bring them some respite against their deceivers.

The concept of ‘maintenance’ in India is covered both under Section 125 of the Code of Criminal Procedure, 1973 and the personal laws. This concept further stems from Article 15(3) reinforced by Article 39 of the Constitution of India, 1950. It is a measure of social justice and an outcome of the natural duty of a man to maintain his wife, children and parents, when they are unable to maintain themselves. The object of maintenance is to prevent immorality and destitution and ameliorate the economic condition of women and children.

Hindu laws are applicable to all individuals who are Hindu by religion and include members of Hindu, Sikh, Jain and Buddhist communities. These laws are also applicable on an individual who is not a Christian, Muslim, Jew or a Parsi and is not governed by any other personal laws.

Status Of Maintenance In Different Religion:-

Laws of maintenance under different personal laws in India can be classified into four heads:

1. Maintenance under Hindu Law.
2. Maintenance under Muslim Law.
3. Maintenance under Christian Law.
4. Maintenance under Parsi Law.

Maintenance Under Hindu Law:-

The relief of maintenance is considered an ancillary relief and is available only upon filing for the main relief like divorce, restitution of conjugal rights or judicial separation etc. Further, under matrimonial laws if the husband is ready to cohabit with the wife, generally, the claim of wife is defeated. However, the right of a married woman to reside separately and claim maintenance, even if she is not seeking divorce or any other major matrimonial relief has been recognized in Hindu law alone. A Hindu wife is entitled to reside separately from her husband without forfeiting her right of maintenance under the Hindu Adoptions and Maintenance Act, 1956. The Act envisages certain situations in which it may become impossible for a wife to continue to reside and cohabit with the husband

but she may not want to break the matrimonial tie for various reasons ranging from growing children to social stigma.

Maintenance Of Wife:-

Under Section 24 of Hindu Marriage Act, 1955 either the wife or husband can apply for interim maintenance. The basis of the claim for interim maintenance is that the claimant has no independent income of his/her own to support himself/herself. The provision is silent on the quantum of maintenance and it is upon the discretion of the court to determine the quantum. Similarly, maintenance pendente lite is to be provided to the claimant who does not have an independent income and the financial need of litigation expenses has to be provided by the other spouse.

The interim maintenance is payable from the date of presentation of the petition till the date of dismissal of the suit or passing of the decree. Interim maintenance is supposed to meet the immediate needs of the petitioner. And maintenance pendente lite is for providing the litigation expenses to the claimant.

Section 3(b)(i) of Hindu Adoption and Maintenance Act, 1956 defines maintenance as "provision for food, clothing, residence, education, and medical attendance and treatment." In the case of unmarried daughter, it also includes her marriage expenses. The provisions for permanent maintenance are present in all the personal laws and are substantively similar. However there are some differences between the personal laws.

Grounds For Award Of Maintenance:-

Only upon proving that at least one of the grounds mentioned under the Act, exists in the favour of the wife, maintenance is granted. These grounds are as follows:-

1. The husband has deserted her or has wilfully neglected her;
2. The husband has treated her with cruelty;
3. The husband is suffering from virulent form of leprosy/venereal diseases or any other infectious disease;
4. The husband has any other wife living;
5. The husband keeps the concubine in the same house as the wife resides or he habitually resides with the concubine elsewhere;
6. The husband has ceased to be a Hindu by conversion to any other religion;
7. Any other cause justifying her separate living;

Quantum Of Maintenance:-

The means and capacity of a person against whom the award has to be made should be taken into consideration for determining the quantum of maintenance. In fact, in case of the husband, it is not only the actual earning, but also his potential earning capacity, which must be considered i.e. there is a presumption that every able-bodied person has a capacity to earn and maintain his wife.

The income of the husband is a significant factor to be considered by the court in fixing the quantum of maintenance. It is disposable income and not the gross income, which is to be considered.

Section 23(2) of Hindu Adoption and Maintenance Act states the factors to be considered in determining the amount of maintenance payable to the wife, children and aged parents, and they are as follows – the position of and status of the parties, the reasonable wants of the claimant, the claimant if living separately is justified or not, the income of the claimant and the value of the claimant's property and the number of persons entitled to maintenance under the Act.

Even if one of these grounds exists in favour of the wife, she will not be entitled to relief if she has indulged in adulterous relationship or has converted herself into any other religion thereby ceasing to be a Hindu. It is also important to note here that in order to be entitled for the relief, the marriage must be a valid marriage. In other words, if the marriage is illegal then the matrimonial relationship between the husband and wife is non-existent and therefore no right of maintenance accrues to wife. However, thanks to judicial activism, in particular cases the presumption of marriage is given more weightage and the bars to maintenance are removed.

Maintenance Of Children:-

Section 20 of Hindu Adoption and Maintenance Act imposes an obligation upon the parents – mother and father,

both equally to maintain the children – both legitimate and illegitimate. This is a unique feature of the Hindu law where both the parents are equally responsible to maintain the children. Section 20(2) of Hindu Adoption and Maintenance Act lays down that the children are entitled to maintenance during their minority. This right of maintenance for the daughter is extended till she gets married. The parents are obliged to bear her marriage expenses.

However even after marriage a minor married daughter, if she is unable to maintain herself then she can claim for maintenance under Section 125 Cr.P.C. When an application has been filed under Section 24 and 25 of Hindu Marriage Act, the children are also entitled to get maintenance if the claimant has the responsibility of maintaining them i.e. the claimant's right to maintenance also includes the right of maintenance of the children. Section 26 of Hindu Marriage Act also provides that in any proceeding under the Act the court can from time to time pass interim orders and make provisions in respect of the custody, maintenance and education of the minor children.

Maintenance of Parents:-

Section 20 of Hindu Adoption and Maintenance Act also lays down an obligation of maintenance of old and infirm parents who are not able to maintain themselves out of their own personal earnings and property. The Hindu Adoption and Maintenance Act is the first statute in India, which imposes an obligation on the children to maintain their parents. The obligation to maintain is not only limited to the sons but it also extends to the daughters.

Under Hindu Adoption and Maintenance Act, both the mother and the father have an equal right to claim maintenance. The explanation to this section also includes stepmother in the term parent. However it is important to note that the section imposes an obligation to maintain only those parents, who are unable to maintain themselves and therefore the obligation to maintain the parents other than those infirm and unable, is only moral.

Maintenance under Muslim Law:-

All those things which are necessary to support life, such as food, clothes and lodging; many confine too solely to food. Nafaqa literally means which a man spends over his children; in law it means feeding, clothing and lodging; in common use it signifies food. Maintenance comprehends food, raiment, lodging, though in common parlance it is limited to first.

The main principles of maintenance may be recounted thus: (i) A person is entitled to maintenance if he has no property, (ii) is related to obligor in prohibited degrees, or is the wife or child, and the obligor is in position to support him. The obligation of maintenance is also hedged by the factor of their economic condition.

Maintenance Of Wife:-

It is incumbent on a husband to maintain his wife, whether she is Muslim or Kitabiyyah, poor or rich, enjoyed or unenjoyed, young or old. However the wife is too young for matrimonial intercourse she has no right to maintenance from her husband, whether she is living in his house or with her parents. The husband is bound to maintain his wife so long as she is faithful to him and obeys his reasonable orders. A disobedient wife does not need to be maintained. Where the marriage is valid and the wife is capable to render marital intercourse it's the husband's duty to maintain his wife even though she may have means to maintain herself. But if she unjustifiably refuses to cohabit with her husband then she loses her right for maintenance. The right of maintenance would also be lost if the wife refuses to obey the reasonable commands of the Husband but not so if disobedience is justified by circumstances or if she is forced to leave husband's house on account of cruelty, so that of the husband refuses to maintain his wife without any lawful reasons/causes the wife may sue him for maintenance. She is not however entitled to past maintenance. Maintenance is payable from the date of the decree unless the claim is based on specific agreement.

Where a wife is turned out or ill treated so as to make her impossible to stay or live together with her husband, or where the breach between the wife and husband is irremediable she is entitled to maintenance by living separate from him whether the question arises u/s. 125 of the Code of Criminal Procedure 1973 (corresponding section. 488 of the Code of Criminal Procedure 1998) or in a suit for restitution of conjugal right.

The husband and wife or their guardian may enter into agreement whereby the wife is entitled to recover maintenance from her husband, on the happening of some special event such as ill-treatment, disagreement, husband's second marriage etc. but the agreement in the marriage contract that the wife would not be entitled to maintenance is void. The key consideration is that the agreement should not be opposed to the public policy and

Muslim Law.

An agreement between a Muslim and his first wife, made after his marriage with a second wife, providing for certain maintenance for her if she could not in future get on with the second wife, was held not void on the ground of the public policy.

Following are the valid conditions for an agreement:-

1. If the husband treats the wife with cruelty then the wife has a right to separate residence and maintained to meet it.
2. If he brings subsequent wife and the previous wife is unable to be with her, she will get maintenance allowance to live separately or even at her father's house.
3. If he brings his other wife to the matrimonial home, she will reside at her father's home and he will give her maintenance. This view was reiterated by the Karnataka High Court.
4. In case of disagreement with each other, he will give her maintenance for her separate residence.

After divorce the Mahomedan wife is entitled to maintenance during the time period of Iddat and also for the time, if any, that elapsed after the expiry of the period of Iddat and her receiving notice of Talaq. After expiry of the period of Iddat the enforceability of the order of maintenance ceases.

The wife is entitled to sue for maintenance at her normal place of residence at the time of divorce and the place where she receives the notice thereof. Suit by divorced for Hiba-jewels lies where the wife resides.

A widow is not entitled to maintenance out of the estate of her late husband in addition to what she is entitled to by inheritance or under his will.

Maintenance of Children:-

In case of legitimate children, the maintenance of the children rests upon the father. Thus a father is bound to maintain his sons until they attain puberty and his daughter until they are married. He is also responsible for the upkeep of his widowed or divorced daughter, or a child in the custody of the mother. The father is not bound to provide separate maintenance for a minor or an unmarried daughter who refuses to live with him without reasonable cause.

An adult son need not to be maintained unless he is infirm. The father is not bound to maintain a child who is capable of being maintained out of his or her own property. If the father is poor or infirm then the mother is bound to maintain the children. And failing her it is the duty of the parental grandfather.

Maintenance under Christian Law:-

A Christian woman can claim maintenance from her spouse through criminal proceeding or/and civil proceeding. Interested parties may pursue both criminal and civil proceedings simultaneously, as there is no legal bar to it. In criminal proceedings, the religion of the parties does not matter at all, unlike in civil proceedings.

Section 36 of the Indian Divorce Act, 1869 is similar to Section 24 of Hindu Marriage Act. However Section 36 of Indian Divorce Act differs in the respect that the maintenance pendente lite and interim maintenance can only be claimed by the wife and not by the husband.

If a divorced Christian wife cannot support her in the post divorce period she need not worry as a remedy is in store for her in law. Under Section 37 of the Indian Divorce Act, 1869, she can apply for alimony/maintenance in a Civil Court or High Court and, husband will be liable to pay her alimony such sum, as the Court may order, till her lifetime. The Indian Divorce Act, 1869 which is only applicable to those persons who practice the Christianity religion inter alia governs maintenance rights of a Christian wife. The provisions are the same as those under the Parsi law and the same considerations are applied in granting maintenance, both alimony pendente lite and permanent maintenance. The provisions of the Indian Divorce Act, 1869, are produced herein covered under Part IX- Section 36 to 38.

The Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable, provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive

the same order wholly or in part as to the Court seems fit.

Under Section 38 of the Indian Divorce Act, 1869, in all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

Maintenance under Parsi Law:-

Parsis can claim maintenance from the spouse through criminal proceedings or/ and civil proceedings. Interested parties may pursue both criminal and civil proceedings, simultaneously as there is no legal bar to it. In the criminal proceedings the religion of the parties doesn't matter at all unlike the civil proceedings.

If the husband refuses to pay maintenance, wife can inform the Court that the husband is refusing to pay maintenance even after the order of the Court. The Court can then sentence the husband to imprisonment unless he agrees to pay. The husband can be detained in the jail so long as he does not pay.

The Parsi Marriage and Divorce Act, 1936 speaks about the right of wife to maintenance-both alimony pendente lite and permanent alimony. The maximum amount can be decreed by Court as alimony during the time a matrimonial suit is pending in Court is one-fifth of the husband's net income. In fixing the permanent maintenance, the Court will determine what is just, bearing in mind the ability of husband, wife's own assets and conduct of the parties and this order will remain in force as long as wife remains chaste and unmarried. In case of pendente lite and interim maintenance Section 39 of the Parsi Marriage and Divorce Act, 1936 is similar to Section 24 of Hindu Marriage Act. Section 40 of Parsi Marriage and Divorce Act says that the defendant shall pay to the plaintiff for her or his maintenance and support, such gross sum or such monthly or periodical sum, for a term not exceeding the life of the plaintiff as having regard to the defendant's own income and other property, if any, the income and other property of the plaintiff, the conduct of the parties and other circumstances of the case, it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the movable or immovable property of the defendant.

The Court if it is satisfied it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just and if the Court is satisfied that the party in whose favour, an order has been made under this section has remarried or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he had sexual intercourse with any woman outside wedlock, it may, at the instance of the other party, vary, modify or rescind any such order in such manner as the Court may deem just.

Provision for Maintenance With Reference To Section 125 Of Criminal Procedure Code:-

Section 125 of Cr.P.C deals with order for maintenance of wives, children and parents.-

1. If any person having sufficient means neglects or refuses to maintain-
2. His wife, unable to maintain herself, or
3. His legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or
4. His legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is by reason of any physical or mental abnormality or injury unable to maintain itself, or
5. His father or mother, unable to maintain himself or herself.

It should be kept in view that the provision relating to maintenance under any personal law is distinct and separate. There is no conflict between the two provisions. A person may sue for maintenance under Section 125 of Cr.P.C. If a person has already obtained maintenance order under his or her personal law, the magistrate while fixing the amount of maintenance may take that into consideration. But he cannot be ousted of his jurisdiction. The basis of the relief, under the concerned section is the refusal or neglect to maintain his wife, children, father or mother by a person who has sufficient means to maintain them. The burden of proof is on him to show that he has no sufficient means to maintain and to provide maintenance.

Section 125 gives a statutory recognition to the moral, legal and fundamental duty of a man to maintain his wife, children and aged parents. Although this section benefits a distressed father, the main thrust of this section is to assist women and children. Article 15(3) of the Indian constitution envisaged that the state can make special provision for woman and children. Section 125 is also along the lines of Article 39 of the Indian Constitution that states that the

State shall direct its policy towards ensuring that all citizens both men and women have equal access to means of livelihood.

At the time of enactment of this code Section 125 is intended to be applicable to all irrespective of their personal laws. Though maintenance is a civil remedy yet it has been made a part of this Code to have a quick remedy. Proceedings under section 125 are not a trial as non-payment of maintenance is not a criminal offence.

The word any person u/s 125 includes a person who belongs to the undivided family although the proceedings is initiated against the individual concern and not the undivided family. However, the Magistrate may take into consideration the joint family property while determining the amount of maintenance that should be payable by such person. It also includes a person, a father, an adult son and a married daughter. But not include a mother or a wife or an unmarried daughter.

It has been held that the refusal or neglect to maintain may be expressed or implied, it may be by words or by conduct and action. Sometimes refusal or neglect may be constituted by something more, than mere failure and omission. However, in relation to a person who has no violation of his or her own, like in case of a child mere failure or omission shall constitute refusal or neglect to maintain.

The term maintenance has been generally interpreted to include food, clothing and lodging. However in recent time it has been held that any other requirements, i.e., necessary for a person to remain fit, healthy and alive is also to be included within periphery of the term maintenance.

Suggestions:-

1. In a maintenance order passed under Section 125 of Cr.P.C. husband/father should be liable to undergo rigorous imprisonment (to serve as a deterrent) for a term that may extend to 6 months and should also be liable to pay a fine equal to twice the amount of arrears of maintenance or permanent alimony.
2. In many cases where the husbands are the petitioners and maintenance orders are passed against them, even after flouting these orders their matters continue to proceed. Principally there should be a stay of the proceedings. The judges must not permit the defaulting petitioner to flout the orders of the same court before which he appear. In this regard judges can play an active role.
3. While assessing the income or assets of the husband for ascertaining the maintenance amount, the judges must take assistance from social workers, NGOs and probation officers who could, inter alia, draw inference from standard of living of the family. Amount of maintenance must be deposited in the court in the beginning of every month, to ensure that the wife receives her dues in time.

The provisions of maintenance in various statutes have been made conditional upon certain norms of behavior. Hindu Marriage Act 1955 (HMA), require that the wife in whose favour the maintenance has been granted should be chaste and should not remarry. Cr. P.C. requires the wife not to be 'living in adultery', while Hindu Adoption and Maintenance Act, 1956 imposes the condition that she remains chaste and not cease to be a Hindu by conversion to another religion. This position may be compared to that of a widow who succeeds to the property of the husband on his death. She does not forfeit her right in the property either by subsequent unchastity or by remarriage. It points out the coercive nature of such prescriptions which needs to be changed.

Under the Code of Criminal Procedure, 1973 the wife's right to claim maintenance from husband depends on the husband having sufficient means. No doubt inclusion of the right of maintenance under the Code of Criminal Procedure has a great advantage of making the remedy smooth, speedy and cheap and is available to all irrespective of their religion however it is suggested that provision should be made to mandatorily dispose of such complaints within 60 days.

It is no exaggeration to observe that courts in our country are burdened with heavy work load. Provisions of Cr.P.C. should be so amended or modified which may have the effect of preventing contumacious defaulters from labeling the false accusation during the enforcement proceedings and at the same time protect the genuine and honest objections. It is suggested that provision for punishment of defaulters up to minimum 15 days to maximum 6 months must be provided under Cr.P.C.

The law related to maintenance should be so amended to deal with maintenance of second wife, sister, and partners

in live-in relations and of husband who is not able to maintain himself etc. in a clear way. It is also suggested that at the time of deciding the quantum of maintenance to wife, Law and Courts must take into consideration the time and efforts invested by wife in running the family affairs. Usually, the contribution of wife in the family is not monetarily compensated but in all claims of maintenance the Courts must give due regard to the contribution of wife in running the family affairs and thereafter fix the quantum of maintenance.

There is no doubt that the changes as recommended by the Commission are the need of the day. The changes once introduced would certainly uplift the economic independence of women and would help in providing speedy and just maintenance to women and children; thereby directly facilitate the purpose behind these social legislations.

Conclusion:-

By virtue of judicial pronouncements and other steps, rights of women has been restored but it will become fruitful only when under lying thinking are changed, the women should emancipate themselves educationally, economically and socially for their well being. Only then they can understand their rights and worth and then the social upliftment of the whole community is possible. We should always remember that mother is the first teacher and mentor of his child. It is a historical fact that no society ever lived in peace until their women folk are at peace.

Although maintenance should be gender neutral and should be applicable both for husband and wife respectively for the greater perspective of the society but still many women are being denied to claim their rights of maintenance. Proper implementation is necessary to abide by the Law of the Land and ultimately to make it a grand success.