

Wife Can Claim Maintenance From Husband Even If She Doesn't Live With Him As Per Decree On Conjugal Rights Restitution

❖ **TOPIC :** Rina Kumari @ Rina Devi @ Reena Versus Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another

❖ **BENCH:** CJI Sanjiv Khanna and Justice Sanjay Kumar

❖ **FORUM:** Supreme Court

❖ **FACTS**

- Dinesh (husband), therefore, sought to protect himself from a claim by Reena (wife) for maintenance by projecting the disobeyed restitution decree as a defence and as long as she did not attain the status of a divorced wife, that protection would endure to his benefit.
- This stalemate of sorts created by Dinesh clearly reflects his lack of bonafides and demonstrates his attempt to disown all responsibility towards his wife, Reena.
- These factors, taken cumulatively, clearly manifest that Reena had more than sufficient reason to stay away from the society of her husband, Dinesh, and her refusal to live with him, notwithstanding the passing of a decree for restitution of conjugal rights, therefore, cannot be held against her.
- In consequence, the disqualification under Section 125(4) Cr.P.C. was not attracted and the High Court erred grievously in applying the same and holding that Reena was not entitled to the maintenance granted to her by the Family Court.”
- The Court allowed the Wife's Appeal against the Jharkhand High Court's decision, overturning the Family Court's order directing the Respondent- Husband to provide Rs. 10,000/- per month maintenance to the Appellant- Wife.

❖ **MAIN ISSUE**

- Will a husband, who secures a decree for restitution of conjugal rights, stand absolved of paying maintenance to his wife by virtue of Section 125(4) of the Code of Criminal Procedure, 1973, if his wife refuses to abide by the said decree and return to the matrimonial home?

❖ **OBSERVATION**

- In a notable ruling, the Supreme Court held that a wife, even if she refuses to live with her husband despite a decree of restitution of conjugal rights against her, is entitled to claim maintenance under Section 125 of the Cr.P.C.
- The judgment authored by Justice Sanjay Kumar observed that a wife's refusal to comply with the decree of conjugal rights passed under Section 9 of the Hindu Marriage Act, 1955, on just cause would not disentitle her to claim maintenance from her husband under Section 125 of the Cr.P.C
- Noting that the respondent-husband had completely ignored his wife-Appellant after she suffered the miscarriage of their child and ill-treated her in her matrimonial home, the Court held that the Appellant-Wife has sufficient cause to not return to the matrimonial home.
- Thus, it observed that the husband would not be absolved from his responsibility to maintain her wife despite a decree of restitution of conjugal rights not complied with the wife.
- The Court observed that passing the decree of restitution of conjugal rights would not exonerate the husband from his responsibility to maintain his wife.
- According to the Court, the restitution decree serves as relevant material but does not conclusively determine maintenance eligibility.
- The Court must independently assess the wife's reasons for living apart while deciding her maintenance plea.
- It would depend on the facts of the individual case and it would have to be decided, on the strength of the material and evidence available, whether the wife still had valid and sufficient reason to refuse to live with her husband, despite such a decree.
- Accordingly, the Court allowed the Wife's appeal and reinstated the Family Court's order for payment of maintenance under Section 125 Cr.P.C.

❖ **IMPORTANT PROVISION DISCUSSED**

- Section 9 of Hindu Marriage Act (Restitution of Conjugal Rights)
- Section 125 Crpc (Orders for the maintenance of wives, children, and parents)

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Amit Singh v. The State of Rajasthan Citation: SLP (Crl.) Nos. 1134-1135 of 2023

- ❖ **TOPIC:** Convict Given Benefit Of Probation Won't Suffer Any Disqualification Due To Conviction : Supreme Court
- ❖ **BENCH:** Justices J.K. Maheshwari and Rajesh Bindal
- ❖ **FORUM:** Supreme Court
- ❖ **FACTS**
 - In the present case, the conviction was under Sections 399 and 402 of the Indian Penal Code, 1806 (IPC) along with Sections 3/25 and 4/25 of the Arms Act, 1959 by the Trial Court.
 - However, the Allahabad High Court quashed the convictions under the IPC.
 - For the offences under the Arms Act, the Court upheld the conviction. Still, it extended the benefit of Section 4 (power of court to release certain offenders on probation of good conduct) of the Probation of Offenders Act, 1958.
 - Instead of sentencing them immediately, the Court released the convict on bail for 2 years.
 - When the appellant was denied public employment due to his conviction, he filed an application before the High Court seeking a declaration that no disqualification is attached to him, since he was given the benefit of probation
 - He sought the benefit of Section 12 (removal of disqualification attaching to conviction) as a consequence of having given the benefit of Section 4.
 - However, the High Court rejected the application, saying that it has become functus officio after passing the conviction order and cannot review its order.
- ❖ **MAIN ISSUE**
 - Regarding the benefit of probation on grounds of good conduct
- ❖ **OBSERVATION**
 - The Supreme Court recently held that when a Court confirms a conviction but extends the benefit of probation on grounds of good conduct, it cannot deny the consequential benefit which is the removal of disqualification, if any, attached to the conviction.
 - At the Supreme Court, a bench of Justices J.K. Maheshwari and Rajesh Bindal decided

the issue on the limited question of whether having extended the benefit of probation for good conduct, can the consequential benefit be denied

- Answering in the affirmative, the Court said: "On perusal thereof, we had no scintilla of doubt that when a person who is found guilty, is extended the benefit of Section 3 or 4 of the Probation of Offenders Act, then he shall not suffer disqualification, if any, attached to the conviction of an offence under such law."
- The Court also took note of the fact that the High Court had extended the benefit of probation on good conduct to six other convict persons as well, although they did not claim benefits under Section 12.
- Keeping parity in mind, the Court found it imperative to extend the same benefit to all other convicts.
- ❖ **IMPORTANT PROVISION DISCUSSED**
 - Section 399 IPC (Punishment for making preparations to commit dacoity)
 - Section 402 IPC (Offense of assembling to commit dacoity)
 - Section 4 Probation of Offenders Act (power of court to release certain offenders on probation of good conduct)
 - Section 12 (Removal of disqualification attaching to conviction)

VC vs RC, Family Court Appeal 155 of 2018

- ❖ **TOPIC:** Wife Filing False Case Against Husband, In- Laws To Correct His Behaviour Is Cruelty, Not Acceptable In Marital Relations: Bombay High Court
- ❖ **BENCH:** Justices Girish Kulkarni and Advait Sethna
- ❖ **FORUM:** Bombay High Court
- ❖ **FACTS**
 - The decision of a Family Court, which while granting divorce to a couple noted the fact that the wife had lodged a false case against the husband and his family members, which caused them mental cruelty.
 - Regarding the judgement of the High Court, the wife approached the High Court.
- ❖ **MAIN ISSUE**
 - Regarding a wife filing a false complaint against her husband

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❖ **OBSERVATION**

- A wife filing a false complaint against her husband just for correcting his behaviour would not find place in harmonious relations a married couple would maintain normally and the same will amount to cruelty, the Bombay High Court held recently.
- A division bench of Justices Girish Kulkarni and Advait Sethna refused to interfere with the decision of a Family Court.
- "We may observe that the husband and his family members being subjected to false criminal proceedings and the ordeal of such serious charges being faced by them that too for the reason that the wife wanted to correct the behaviour of the husband, would find no place in the harmonious relations of mutual trust, respect and affection, a married couple would normally maintain.
- The judges further added that once there is a dent to such essential values, on the foundation of which a marriage rests, by a false and draconian action of a criminal prosecution being resorted to by either spouse, it is in the realm of cruelty which would be a ground for divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955.
- "Thus, such actions on the part of the wife of resorting to a false prosecution, was certainly sufficient ground, entitling the husband for a divorce on the ground of cruelty. The principles of law in this regard are well settled," the judges held.
- In the present case, the judges said that the wife never realised the effect of the husband and his relatives being dragged into a false prosecution of such serious offences.
- "Further, the social stigma and unwarranted harassment caused to the husband and his family members is another significant aspect of the sufferings of the husband and his family members.
- The Judge of the Family Court is, therefore, correct in his observations that a strong case for divorce on the ground of cruelty was made out by the husband so as to decree the Marriage Petition filed by him," the bench opined.
- The judges, therefore, found no perversity in the judgment of the Family Court and therefore, upheld the same and dismissed the wife's appeal.

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 13(1) (i-a) HMA (Grounds for divorce when a couple has been separated for a long time without a valid reason)
- Section 498-A IPC (Cruelty)

Bijay Kumar @ Bijay Kumar Bimal vs State of Bihar Citation: 2025 (Pat) 3

❖ **TOPIC:** Cognizance Of Offence U/S 188 IPC Requires Complaint By Public Servant, Not FIR: Patna High Court Quashes Magistrate's Order

❖ **BENCH:** Justice Jitendra Kumar

❖ **FORUM:** Patna High Court

❖ **FACTS**

- The case arose from an incident in April, 2014, when a political rally allegedly violated the Model Code of Conduct by continuing beyond the permitted time and landing a helicopter against restrictions.
- Based on a report by the Block Development Officer, an FIR was registered, and a charge sheet filed, leading the Magistrate to take cognizance of offenses punishable under Section 188 IPC.

❖ **MAIN ISSUE**

- Regarding the cognizance taken by the Judicial Magistrate of offence under Section 188 of the Indian Penal Code

❖ **OBSERVATION**

- The Patna High Court in a judgment delivered recently, quashed the cognizance taken by the Judicial Magistrate of offence under Section 188 of the Indian Penal Code (IPC).
- The court held that cognizance for the offence under Section 188 IPC cannot be taken on the basis of a police report and must adhere strictly to the requirements of Section 195(1)(a) of the Code of Criminal Procedure (CrPC).
- Quashing the Magistrate's order, the High Court reiterated that cognizance under Section 188 IPC must strictly comply with the mandatory requirements of Section 195 CrPC, and any deviation renders the proceedings void.
- Justice Jitendra Kumar, presiding over the case, observed, The Magistrate is not competent to take cognizance of an offense punishable under Section 188 IPC on a police report.

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- He can take cognizance of such offense only on the complaint of the public servant whose order has been violated or on the complaint of an administratively superior public servant.
- The Court, in its judgement, observed that Section 195(1)(a) CrPC explicitly states that, “general power of Magistrate to take cognizance of a cognizable offence on police report is curtailed by providing that cognizance of offence punishable under Sections 172 to 188 IPC can be taken only upon the complaint in writing of the public servant concerned or his administratively superior public servant.

- In other words, a Magistrate cannot take cognizance of offence punishable under Section 188 IPC upon police report, though the offence under Section 188 IPC is cognizable as per schedule 1 to Cr.PC.”

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 188 IPC (Disobedience to a public servant's order)
- Section 195(1) (a) Crpc (Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence)



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