

Justice Delayed Is Justice Denied

**Study on Maintenance under Sec 125 CrPC; Enabling or
Hindering Access to Entitlement**



**By: HUMSAFAR-Support Centre for Women,
Lucknow**

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Acknowledgements

This slim volume '**Justice Delayed is Justice Denied: Maintenance under Sec 125 CrPC; Enabling or Hindering Access to Entitlement**' is the positive outcome of our collective frustration over long delays in getting relief for our women survivors on the fringe of virtual destitution.

The great effort of the women who are carrying on the battle on the ground to secure their right deserves our admiration and gratitude for inspiring the study.

Sharing our experiences with other organizations revealed that their experience in such cases was very similar. For this reason we decided to critically examine the issue more closely.

We wish to thank the like-minded organizations from Uttar Pradesh who have shared their cases making the study a more holistic and regionally balanced.

Thanks are due to:

- All India Democratic Women's Association, Uttar Pradesh
- Astitva, Muzaffarnagar
- Saajhi Duniya, Lucknow
- Sahyog, Allahabad
- Vanangana, Chitrakoot and Banda

We are especially indebted to senior advocate and national Vice President Peoples Union for Civil Liberties (PUCL) Ravi Kiran Jain for writing the Foreword and encouraging us with his generous words.

We hope that this report would be utilized by law students, the legal fraternity and like-minded organizations in deepening their understanding of the crucial gaps in the delivery of justice.

We resolve to continue our struggle and support women who waging a battle for their rights.

HUMSAFAR Team

Lucknow, November 30, 2013

Forward

HUMSAFAR has done a commendable work in preparing its Report **“Justice delayed is justice denied”**—Maintenance under 125 CrPC: Enabling or Hindering Access to Entitlement. The study has been done in collaboration with like minded civil groups, and has collection of 26 case studies from Humsafar, Vanangana, Saajhi Duniya, Astitva, Sahyog (Allahabad), All India Democratic Women’s Association (AIDWA). The report shows that a wife wronged by her husband and a child wronged by his father also suffer at the hands of the court. It shows a complete failure of judicial system so far as the object of Chapter IX of CrPC is concerned.

The scheme in the provisions embodied in chapter IX in code of Criminal Procedure comprising of Sec 125 to 128 contains a complete code in itself. It deals with 3 questions viz, 1. A jurisdiction regards the liability to pay monthly allowance to neglected wife and children. 2. The requisition of the order and recovery of monthly allowance and 3. Enforcement of maintenance order. The scope of Sec 125 of CrPC is to prevent vagrancy by compelling those who are under obligation to support those who are unable to support themselves.

One may fail to understand why such a provision has been made in code of criminal procedure which is a “law relating to criminal procedure, relating to all criminal proceedings in India”. The criminal proceedings and the law of procedure relating thereto requires to have provisions of the powers of the Magistrate, the police and the Criminal Courts created under such a law such as investigation and arrest of persons by the police, security for keeping peace, maintenance of public order and tranquility, the commitment of a case to a court for trial of accused persons and their punishment etc. How does a chapter like “Order for maintenance of wife, children and parents” fit in the scheme of law relating to the “criminal procedure” applicable to “criminal proceedings”?

It has rightly been observed in the Report of HUMSAFAR, that though “proceedings u/s 125 of CrPC are completely governed by the procedure of the code of criminal procedure, they are really of civil nature, but are dealt with

summarily in a Criminal Court for the purpose of speedy disposal on grounds of convenience and social order.

The Family Courts Act 1984 was enacted “to provide for the establishments of Family Courts with a view to promote conciliation in, and secure speedy settlement of disputes relating to marriage and family affairs and matters connected therewith” Under Sec 3 of this Act state government may , after consultation with the High Court established for every area , in the state comprising a city or town whose population exceeds 1million , a Family Court and it (State Govt.) may also establish Family Courts for such other areas in the state as it may deem necessary . Sec 7 (2) of the said Act provides that a Family Court shall also have and exercise the jurisdiction exercisable by a Magistrate of First Class under Chapter IX (relating to order maintenance of wife, children, and parents) and sec 8 of the said Act provides that where a Family Court has been established for any area, no Magistrate, in relation to such area have or exercise any jurisdiction or powers under Chapter IX of Criminal Procedure 1973. Now under the present situation there have been established Family Courts only in some areas U/S 3 of Family Courts. HUMSAFAR may consider to make a suggestion that for effectively achieving the objects for which provisions in sec 125 to 128 CRPC have been made there should be Courts on the pattern of a “Family Court” everywhere.

I congratulate Humsafar and wish them well in their future work to support women and ensure justice.

Ravi Kiran Jain

Senior Advocate -High Court-Uttar Pradesh

National Vice President People’s Union of Civil Liberties.

Preface

Gender division forms the basis of all divisions in patriarchal society. It concretizes women's subjugation and devoid them of space to raise dissenting voice against the system. Throughout history women were considered as the responsibility of men i.e. father, brother, husband, son etc. They were not provided with any property rights nor have ownership over any place or piece of property.

This denial or restriction to access financial resources is hallmark of patriarchy as not only it deprives women from exercising their choice but enable men to continue their dominion over them. The utter dependency upon men for each and every financial requirement plays a vital part in women's subjugation and deprives them of the courage to raise their voice against the violence. Number of times, women were forced to endure violence on account of paucity of finances. Where will they go? How they will manage? These are the critical questions whenever women tried to raise voice against the violence suffered by them within the premises of their homes.

The law providing maintenance to women was enacted with the purpose of providing women a space to exercise their choice and enable them to lead a life free from violence and discrimination. A point which needs to be stressed is that a woman raising her voice against violence and wants to renegotiate her marital relationship is not asking for charity or alms. She is underlining the fact that she is an equal contributor to marital home and her contribution to family goes much beyond the role of a care taker. She has always gainfully contributed to the household irrespective of getting a salary or not. The decision to challenge the violence in marital relationship should not bar her from her right to secure maintenance as by challenging violence she is exercising her Right to Life to live with dignity as provided in Art 21 of the Indian Constitution.

This report amply proves that judicial system rather than assisting her to secure her constitutional right has failed to provide a relief and ensure her right to live a violence free life. By delaying and providing a mere pittance the judiciary is denying her justice and strengthening the hands of violators.

MAINTENANCE UNDER Sec 125 CrPC: ENABLING OR HINDIRING ACCESS TO ENTITLEMENT

BACKGROUND

About Humsafar

HUMSAFAR, a Support Centre for Women in Crisis in Lucknow, Uttar Pradesh, was established in November 2003 to ensure a holistic response to women's human rights violations and is collectively managed by a group of activist volunteers.

HUMSAFAR provides direct support to women facing violence and promotes public awareness through fostering community leadership, facilitating educational initiatives, and mobilizing volunteers to engage in public action against VAW (violence against women). The Centre is guided by an innovative multi-faceted approach to changing societal patterns of violence in the family through direct case support while concurrently building networks with different sectors of society, such as students, professionals, and government officials to raise community responsiveness. The main aim is to break down the stigma and secrecy associated with domestic violence and generates supportive and responsive communities that enable women to reach out and receive assistance in times of crisis.

About this study

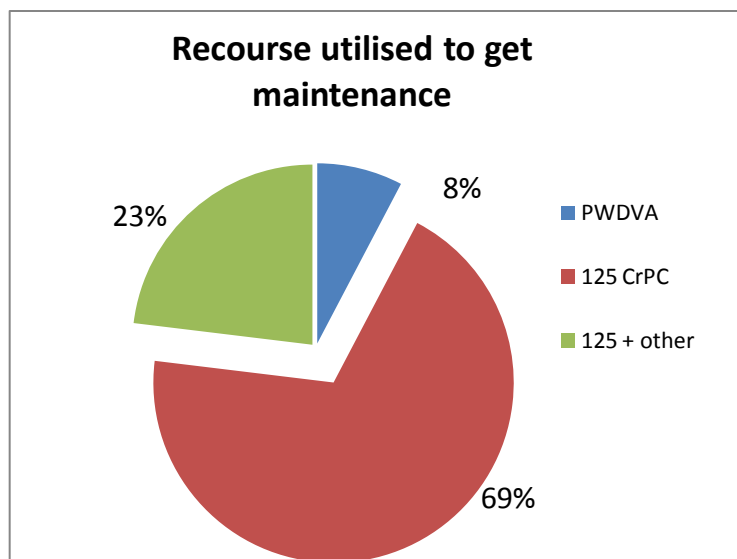
While working as a support centre for women, the group realized that financial insecurity is main obstacle towards holistic rehabilitation of survivors of domestic violence. Financial concern is one of the major causes, due to which women are forced to stay in violent conditions, as in some cases it will virtually leave them on street.

However, some of these women has taken initiative, raised their voices and filed cases against their husband, father or any other male who has legal obligation to maintain them. Ironically, the court proceeding is such that they are unable to get timely aid which could have enabled them live a life free from violence. Number of time, the group itself has approached the court under their legal aid initiative in order to support the survivors in their struggle to secure their social and economic rights. However, the lengthy proceedings, infinite delays and apparent patriarchal nature of judicial authorities made them realize the need to study this system.

Humsafar collated records of all such cases where they approached the court to obtain monetary maintenance. The study has been done in collaboration with other like-minded civil society groups i.e. Vanangana, Saajhi Duniya, Astitva, Sahyog (Allahabad), All India Democratic Women's Association (AIDWA) working in various parts of the state. These groups also intervene in cases of VAW and face similar issues with application of law in courts. They readily agreed to share their case records for the said purpose and in this way the study has a collection of 26 case studies.

While pursuing these case records, the most striking factor that came upfront is that it involves demand of maintenance from women up to 60 years of age. These women had demanded maintenance on the grounds of cruelty; demand of dowry and in some cases on account of adulterous nature of their respective husbands. In some cases women approached the court on behalf of their children demanding maintenance for them.

Initially the study was supposed to include and examine all those legal recourse which enable



Graph No. 1

women to access maintenance. However, once case studies were collected, it was realised that in 92% cases women took the recourse of section 125 Criminal Procedure Code 1973 (hereinafter referred to as CrPC)¹ and only in 8% cases women took the recourse of Protection of Women from Domestic Violence Act 2005 (hereinafter referred to as PWDVA) to obtain maintenance from those who are legally bound to maintain them as per the law. (Please refer Graph No. 1). Therefore, we decided to focus attention on the provision of maintenance as provided under section 125 CrPC, to examine how it enables a woman to access her right to financial entitlement.

¹ Please refer to Annexure I for provisions under 125 CrPC

OVERVIEW

Article 15(3) and 39 of Indian Constitution empowers the State to make special

Laws providing monetary maintenance	By whom	To whom	At what stage
The Hindu Adoption and Maintenance Act 1956	By Hindu Husband, Father, Father-In-Law, son/daughter	Hindu wife, child, widowed daughter-In-Law, aged parents	During marriage, in case of death of husband and during old age
The Hindu Marriage Act 1955	Any Hindu spouse	Any Hindu Spouse	During and after dissolution of marriage
The Parsi Marriage and Divorce Act, 1936	Any Parsi spouse	Any Parsi spouse	During and after dissolution of marriage
The Indian Divorce Act, 1869	Christian Male	Christian Female	During and after dissolution of marriage
The Muslim Women (Protection of Rights on Divorce) Act 1986	Muslim male/relative/ State Waqf Board	Divorced Female	After dissolution of marriage
The Special Marriage Act, 1956	Male	Female	During and after dissolution of marriage
The Protection of Women from Domestic Violence Act, 2007	Any male who is in domestic relationship	Any female or children in domestic relationship	During subsistence of domestic relationship
The Maintenance and Welfare of Parents and Senior Citizens Act 2007	Any major children or relative	Elderly parents/seni or citizen relatives	Old age

Figure 2: Maintenance Laws under Indian Legal System (except 125 CrPC)

provision for women and children giving due regard to their vulnerable position and to make them combat existing inequalities within the society. The provision of maintenance is also one such measure of social justice undertaken by the State based on the fact that it's the natural duty of a man to maintain his wife, children and parents, when they are unable to maintain themselves.

Maintenance as per the existing Indian law pertains to food, clothing, residence, education, medical attendance and treatment² and is available to wife, children and parents. It can be claimed under the respective personal laws of people following different faiths and religion *(Please view the box for details)*.

In addition, maintenance could also be claimed under section 125

CrPC, PWDVA and Maintenance and Welfare of Parents and Senior Citizens Act

². Section 3b of Hindu Adoption and Maintenance Act 1956 claims that "maintenance" includes- (I) in all cases, provision for food, clothing, residence, education and medical attendance and treatment; (ii) in the case of an unmarried daughter also the reasonable expenses of an incident to her marriage;

2007. However, unlike the personal laws [except the Muslim Women (Protection of Rights on Divorce) Act 1986] proceedings initiated under Section 125 CrPC and PWDVA are criminal in nature and are applicable to everyone regardless of caste, creed or religion³.

*Section 125 CrPC which is summarily in nature has been enacted to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and have a moral claim to support*⁴. Hence, maintenance could be claimed either at the beginning of a court case, during the pendency of proceedings, or at the final stage of the case.

THE LAW

Under the provision of section 125(1) CrPC, 'if any person having sufficient means neglects or refuses to maintain:

- his wife (divorced and has not remarried) unable to maintain himself or herself, or
- his legitimate or illegitimate minor child, whether married or not unable to maintain himself or herself, or
- 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
- his father or mother, unable to maintain himself or herself,

Then any of these could approach a Magistrate of the first class who upon proof of such neglect or refusal, may order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother ***at such monthly rate, as he thinks fit***, and to pay the same to such person as the Magistrate may from time to time direct.

³. *Mohr Ahmed Khan v Shah Bane Begum and Others* 1985 AIR 945, 1985 SCR (3) 844

⁴. *Chaturbhuj v Sita Bai* (2008) 2 SCC 316

However, if the wife is:

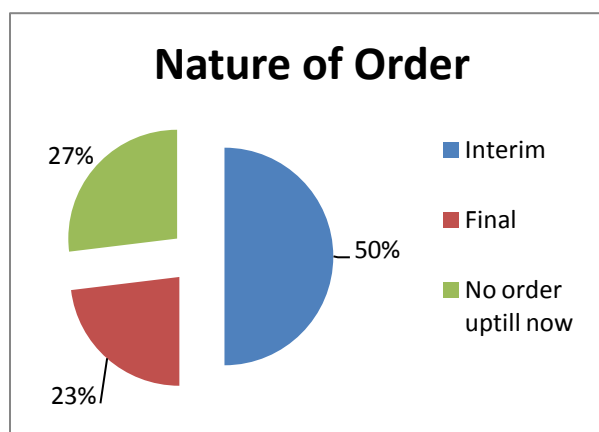
1. Living in adultery
2. Without any sufficient reason refuses to live with her husband, or
3. Living separately with mutual consent.

Then she would not be entitled to receive maintenance from her husband.

The Magistrate may, during the pendency of the proceeding order such person to make monthly allowance for the interim maintenance of his wife, children or parents along with the expenses incurred in making such application.

Furthermore, it is relevant to mention that *there is no bar for the wife to file an application under section 125 CrPC during pendency of matrimonial suit* Section 125 CrPC was enacted aiming towards social justice so that wives who are neglected and deserted by their husbands get maintenance quickly in order to earn their livelihood and can maintain their children. It is quasi-judicial in nature but it is a completely separate proceeding and it cannot be stayed during pendency of matrimonial suite and application in the suit by the wife claiming *alimony pendente lite*⁵.

As mentioned earlier, in most of the cases identified for this study, women took recourse of this section to claim maintenance for themselves and their children. Out of the total cases, in 50% cases they were able to secure relief at the beginning of the proceeding (interim⁶ stage), in 23% cases they were able to secure maintenance through final order whereas the rest of 27% are still pending before various courts. (Please view Graph No. 2).



Graph No. 2

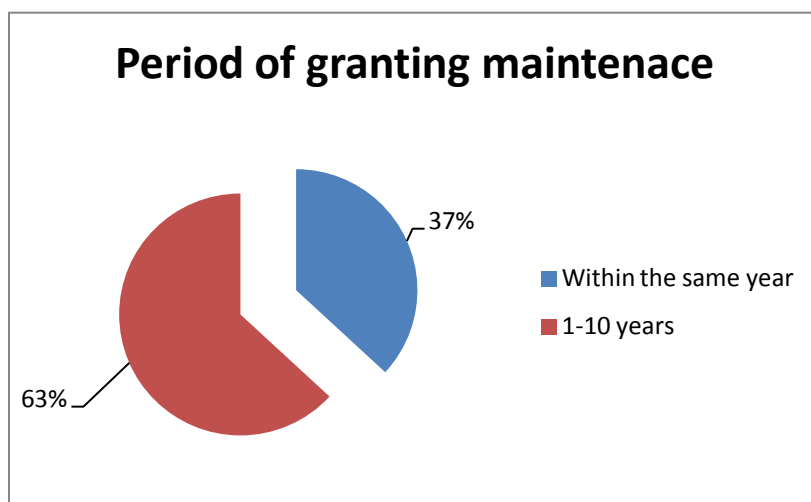
⁵. 2004 (1) CHN 685

⁶. At the onset of the case in the court

GROUND REALITIES: APPLICATION OF LAW AT GROUND LEVEL

A Never Ending Journey.....

As this section provides a remedy which is of immediate and urgent nature, the legislature prescribed a time limit of sixty days under which every application for interim maintenance and the expenses incurred in making such application should be disposed off by the Magistrate⁷. However, to our surprise we found that in



Graph No. 3

most of the cases, the courts are not adhering to this time limit. Only in 37% cases maintenance (interim or final) was ordered within one year of the filing of application. As for others, it took any period from 1-10 years just to get the order of interim maintenance. (Please view Graph No. 3).

This advent delay in providing the remedy which in itself is of urgent and immediate nature makes it futile and defeats the very purpose for which it was enacted. Further, this delay in making an order, which was initially put in place to prevent women and children from *virtually being left on the street*; showcases the apathetic attitude of judiciary and the intrinsic patriarchal values under which it functions.

Case of Swarna Lata⁸ is a perfect example of this never ending process employed by the courts to defeat the fighting spirit of woman. Swarna Lata, a daughter of a coolie in electricity department got married in the year 1982 at the tender age of 10 years to 22 year old Swami Nath. Her husband was alcoholic and used to beat

⁷. Please refer the proviso of section 125 (1) CrPC

⁸. To protect the identity of women, all the names have been changed. Please refer Annexure II for all these.

her at some pretext or other. In 1993 Swami Nath forcibly send her back along with children to her father to pressurize them to give her the money received by her father as his retirement benefit. When family and social mediation and counselling failed to bore any result, Swarna Lata approached court. She filed a case against her husband under section 125 CrPC demanding maintenance for herself and her two sons. It took the court 10 years and 3 months to decide the case. The court adjudicated the matter in favour of Swarna Lata ordering Swami Nath to pay Rs 500, 300, 200 per month to her and her two sons respectively.

Granting Rights or Making A Mockery of Justice.....

In Uttar Pradesh as per the state amendment⁹ in Section 125 in the year 2000 the amount awarded as maintenance could be any amount upto 5000 INR but after the central government's amendment in this regard in year 2001¹⁰, this amount is at the discretion of the court and there is no minimum or maximum limit whatsoever. However, as per the various judicial pronouncements made in this regard, a wife is entitled to ***have the same status as her husband***. She must have the necessary medical facility, food, clothing etc. While fixing the amount of maintenance, the Court should also take into account the inflation and cost of living and his obligation to support the minor child and his parents¹¹.

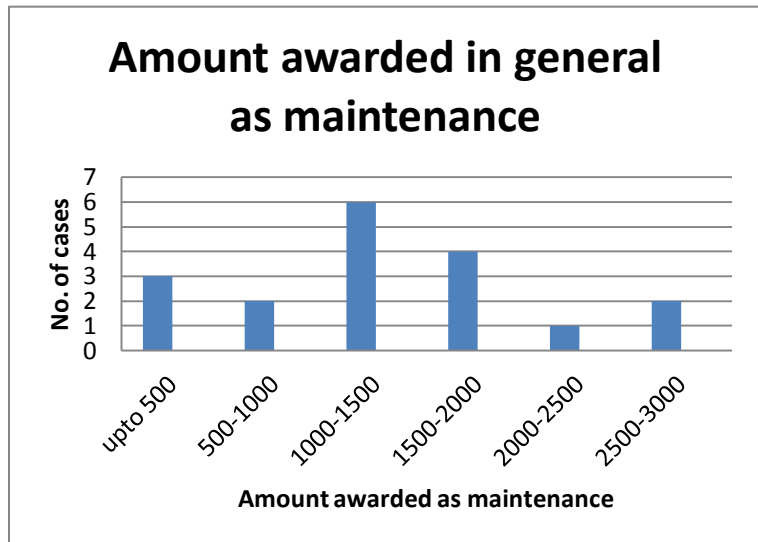
However, the study of our sample size shows that the lower courts are still not adhering to these above-mentioned directions and observations of the Apex court and various High Courts. They are awarding maintenance which is so miniscule in amount that it would not be adequate for a woman to maintain herself let alone to enable her to pursue the way of life she was accustomed at her husband's house. This could be verified by the fact that in all the cases shared in this paper the lower court has awarded maintenance ranging from 200-5000 INR out of which in majority of the cases they have awarded maintenance between the arrears of 1000-2000 INR. (Please view Graph No. 4).

⁹. U. P. Act No. 36 of 2000, w.e.f. 29.12.2000

¹⁰. Code of Criminal Procedure (Amendment) Act 2001 (50 of 2001), w.e.f. 24.9.2001

¹¹. S.Jayanthi Vs. S.Jayaraman (1998(1) DMC 699)

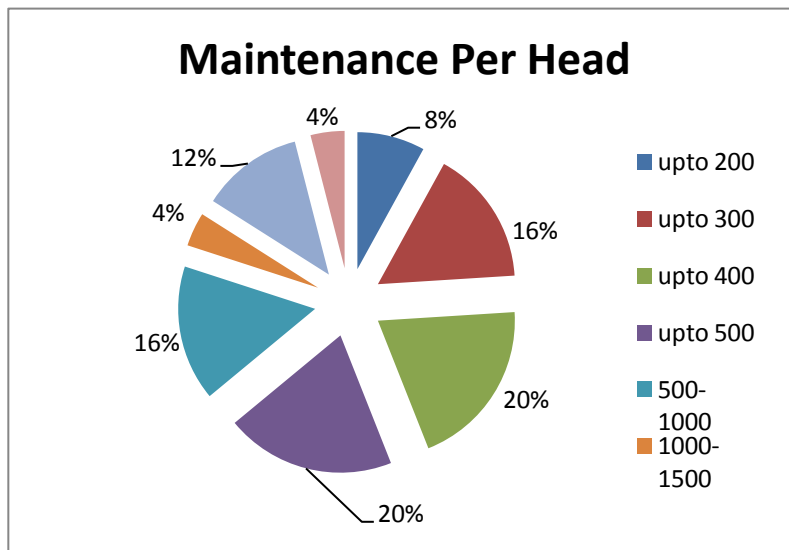
On further analysis of this amount, it was realized that in 64% of cases the amount awarded is within the range of 200-500 INR *per head* per month, which is much less than the daily minimum wages prescribed by the State, or the daily wages provided in unorganized



Graph No. 4

sector (Please view Graph No. 5). So, how this meager amount which is less than the amount of one day wage will take care of basic necessities of life of a woman for an entire month is a question our judiciary needs to ponder.

Here it is interesting to note that even if the husband in question is admitting on record or the documents submitted in the court gives clear picture that the person in question is earning handsomely i.e. Professor, Railway officials etc. or



Graph No. 5

have sufficient means still the court is awarding maintenance within above mentioned range (as shown in Graph No. 5) totally disregarding the superior courts pronouncements in this regard.

Rehana Sultan's case perfectly illustrates this point. Rehana was a well

educated girl whose husband was working as physical education teacher in England. For years she suffered physical and mental abuse at the hand of her

husband. Finally, she contacted Humsafar. With the help of the group, she approached court under section 125 CrPC to claim maintenance for herself and her two daughters aged 2 year and 3 months respectively. In response to her petition, her husband in his written statement to the court admitted that he is earning 70,000 INR per month. Still the court awarded 5000 and later 1500 INR per month as interim maintenance for both the daughters separately.

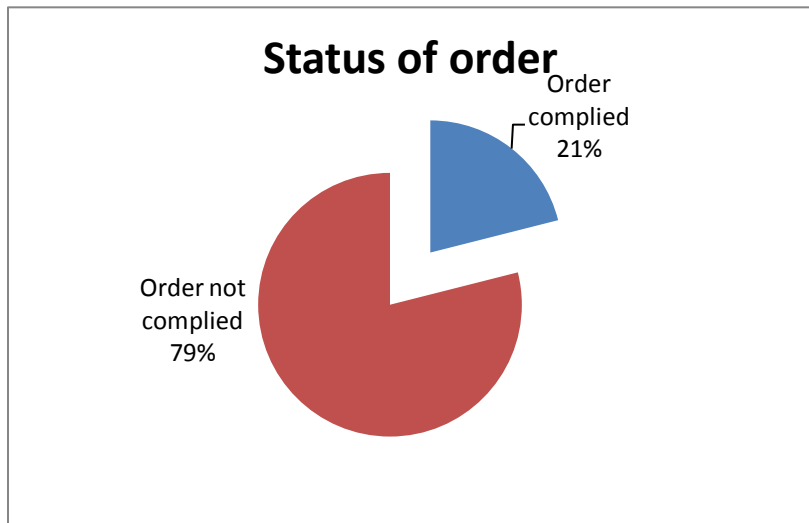
It is relevant to mention here that *as per the law*, even if a wife is earning, she can take the recourse of section 125 CrPC. If her personal income is insufficient to maintain her in the way she was used at her husband's place then she has the right to claim maintenance under this section. For example ***if in a particular case wife was surviving by begging, it 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, has to be decided on the basis of the material placed on record. Where the personal income of the wife is insufficient she can claim maintenance under Section 125 Cr.P.C. 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. In *Bhagwan v. Kamla Devi* (AIR 1975 SC 83) it was observed that the wife should be in a position to maintain standard of living which is neither luxurious nor penurious but what is consistent with status of a family. The expression "unable to maintain herself" does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 Cr.P.C¹².

Enforcement of the Maintenance Order

Section 125(3) states that if a person breaches any order of maintenance (interim or for expenses incurred in the proceedings) without sufficient cause, then the Magistrate may issue a warrant and may sentence such person for whole or any amount remaining unpaid after the execution of warrants to imprisonment for a period of one month or until payment whichever is earlier. This application should be made within a period of one year from the date on which it became due.

¹². Chaturbhuj Vs. Sitabai, (2008) 2 SCC 316

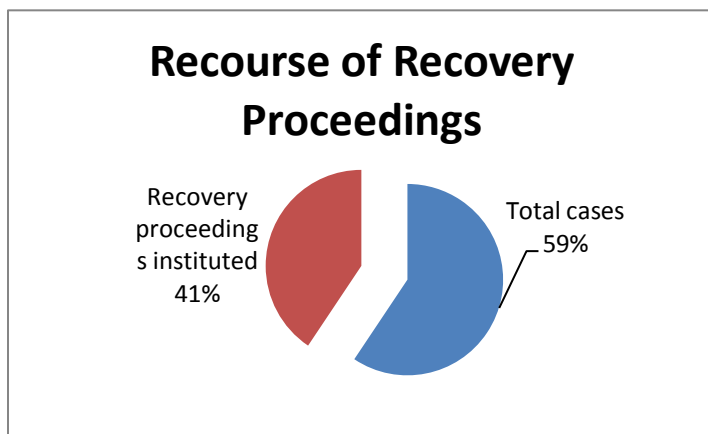
Our study shows that out of the total orders granting maintenance only 21% were complied by men; meaning only in 21% of the cases women are getting timely allowance of maintenance as ordered by the Magistrate. In all the other cases they had to initiate recovery proceeding to enforce the execution of the order. (Please view



Graph No. 6).

Graph No. 6

However, in the practical world, initiation of recovery proceedings fails to get the desired result as perceived by the legislatures. The adjacent graph regarding initiation of recovery proceeding by the women clearly shows that though only 21% orders were complied, still women initiated recovery proceedings only in 41% of such cases. (Please view Graph No. 7)



Graph No. 7

This hesitancy towards the initiation of recovery proceedings demands introspection. Is this because of the lengthy court procedure, or due to futility of the entire recovery proceedings? Under the recovery procedure, recovery warrants are issued

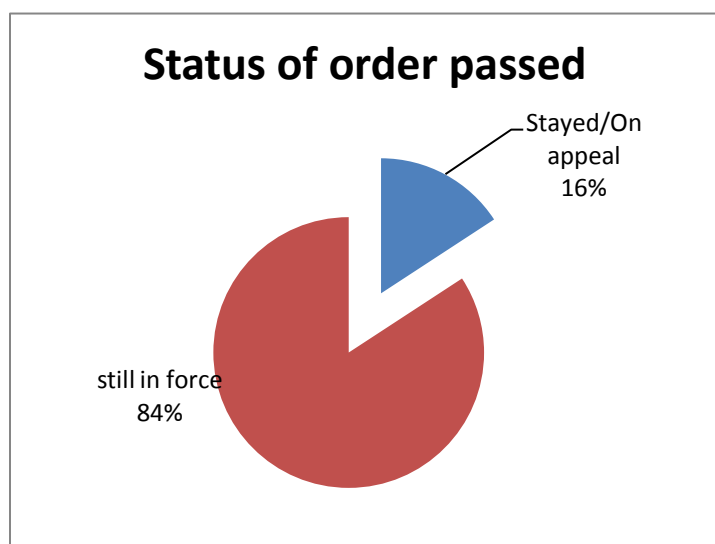
which has to be executed through police.

Now in most of such cases, the inherent corruption within the police force results in non-execution of such warrants. This could be illustrated by the fact that in 6 of our cases, recovery warrants were issued multiple times, still they failed to extract desired result from the respondents. May be this is the reason that though

women are not receiving maintenance still they hesitate to take the recourse of recovery proceedings as it is a tiresome quest.

Hasten Begum's case beautifully explains this predicament. Hasten and her daughter was thrown out of the house by her husband as she refused to enter into the sex trade. In the year 2004, Hasten approached the court claiming maintenance for herself and her daughter. The court admitted her application and vide its order dated July 2009 awarded maintenance of 1000 INR per month for her and 500 INR per month to her daughter from the date of the order. Hasten filed a revision petition against the said order demanding that the maintenance should be awarded from the date of application and not from the date of the order. The District Court vide its order dated September 2010 considered her plea and revised the order directing her husband to pay maintenance from the date of application.

However, her husband refused to comply with the order; she again approached the court for his arrest and seizure of property towards the satisfaction of the order. The court issued multiple recoveries and arrest warrants against her husband directing the Superintendent of Police to comply with the same. However, the police failed to pursue any of these warrants; hence the order which was passed 4 years ago in the proceedings which were instituted 9 years ago is still in the process of enforcement.



Graph No. 8

This argument could be strengthened by the fact that out of the total order passed in cases chosen for our study only 16% were on appeal in the higher court or where stay against the lower court's maintenance order has been granted. Here, majority (84%) of these orders are in force and should be enforced by the concerned courts for the benefit of the women. (Please view Graph No. 8). Sadly,

this is not the case and women were left to fight a system which is so intrinsically against them that it left them no choice but to abandon the quest for their rightful entitlement.

Furthermore, proceedings under Section 125 CrPC are of a civil nature. Though they are completely governed by the procedure of the code of criminal procedure, they are really of civil nature, but are dealt with summarily in a Criminal Court for the purpose of speedy disposal on grounds of convenience and social order¹³. It is to be borne in mind that a petition filed under Section 125 CrPC is not a complaint and the person arrayed as the opposite party is not an accused. Following the decision of the Supreme Court in AIR 1963 SC 1521, which held that instant proceedings under 125 CrPC is a proceedings of a civil nature in which the Magistrate can invoke the inherent powers to recall his earlier order finally disposing a proceedings of this nature, provided, sufficient grounds are shown¹⁴.

One more issue which needs to be highlighted relates to court's power to order the deduction of maintenance amount from salary itself. If the respondent is a salaried person working in any government or private institutions then the court may issue a direction by which the financial department of these authorities/institutions is bound to deduct the amount payable as maintenance from their salary and send it directly to the applicant. While pursuing these cases we realized that in a vast majority of these cases respondents held government jobs i.e. Railway, Electricity, Postal, UPSRTC, Revenue, Homeguard etc. still the court refused to issue any such directions; resultantly all such respondents are violating a court order which could have been easily enforced.

¹³. Pandharinadh Sakham Thuve Vs. Surekha Pandharinadh Thuve, 1999 Cr.L.J 2919 (BOM).

¹⁴. S. K.Alauddin Vs. Khadizebb, 1991 Cr.L.J 2035.

RECOMMENDATIONS

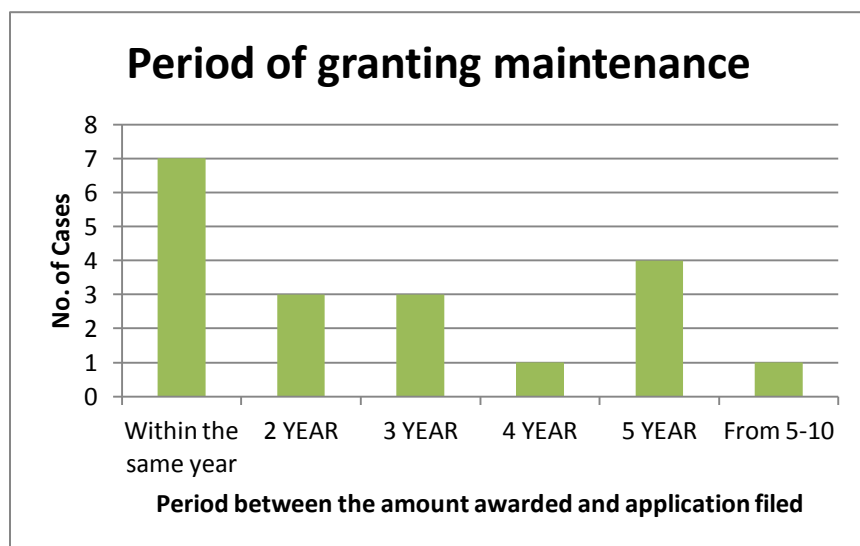
On the basis of abovementioned analysis of maintenance law by examining the application of section 125 CrPC we would like to make certain recommendations which in future would enable women to access their right to maintenance as it was prescribed by the legislature.

1. Gender sensitization of judiciary

The judicial authorities or presiding officers of the court needs to realize that maintenance is a right of women and is not a charity supported by men. Hence they need to change their attitude towards women when they approach their court with the petition of maintenance. They need to consider these petitions without the prejudices and biases of patriarchal set up but in the spirit the legislation was enacted. Therefore, we propose that there should be a timely gender sensitization programmes for their sensitization which would enable them to consider these petitions in an appropriate manner.

2. Timely disposal of application

The remedy provided under section 125 CrPC is of immediate and urgent nature. However, the court took so much time in deciding these cases that ultimately it



Graph No. 9

defeats the purpose of the law. The court takes any time from month to 10 years to decide cases of maintenance. (Please view Graph No. 9).

Usually long list of pending cases is cited as an excuse for these infinite time period.

However our experience shows that mostly, the reason for this pendency is the patriarchal

attitude of the judges who thinks that it is the duty of wife to serve their husband; and here not only they are not fulfilling their pious obligation but has the audacity to ask for maintenance. Hence, they continue the case for years at one pretext or other and when forced to make order they order in such a way that it will have little or no impact on man, hence the low amount of maintenance.

Therefore, we propose that the disposal of applications under section 125 CrPC should be time bound which should be strictly complied by the judicial authorities.

3. Quantum of maintenance should be adequate to ensure a dignified life for women at par with life style she had maintained in her marital home.

The other point which needs to be seriously raised is the quantum of maintenance. The law is very clear and it gives full discretionary powers to the Magistrate to award any amount which he thinks fit. No matter if the husband is admitting to have sufficient means for maintenance still they choose to award miniscule amount i.e. 200 INR, 300 INR etc. In a case where the husband is working with Homeguard and admitted on record that his salary is 6,788 INR per month (as per the salary slip of May '07) the court awarded just 300 INR each to his five children vide its order dated February 2010¹⁵.

In this economical situation, how this amount will make a women sustain herself and her children for the entire month needs to be pondered and those who are awarding such amounts needs to be cautioned.

Therefore, we propose that while deciding the quantum of maintenance the judicial authorities should be instructed to comply with Supreme Court and various high courts guidelines and should also keep in mind the minimum wages prescribed by the government.

4. Effective enforcement of the order

What's the use of an order if it can't be enforced? The enforcement of an order needs collaborative efforts of both judiciary and police and both of these

¹⁵. Please refer Pushpa's case in the Annexure II

authorities are so gender biased that anything which in any way favors a woman is strongly opposed by them. We have case in which multiple times recovery warrant has been issued, order of attachment of property has been issued but to no effect. Though the judiciary is ordering these measures but they are not monitoring the police authorities for their speedy implementation. Hence, we have situation where all this exercise is futile as everybody is making excuse to lay off their responsibility on other.

In this situation, we propose that strict guidelines should be framed for both judicial and police authorities guiding them how, in what manner and within which period an order passed under section 125 CrPC should be implemented so that the objective framed for this law could be utilized in a true manner.

Further where the respondent is holding a salaried job whether in public/private institution the court should direct that authority to deduct the maintenance amount from the salary and send it directly to the applicant.

CONCLUSION

The law of marriage put an obligation upon the husband irrespective of person's religion that he has to take care of his wife's and children's needs. This obligation has its roots in the patrilineal structure of the society where property and finances are controlled and regulated by men. But if a man refuses to fulfill this obligation the law supports women in obtaining the same. Maintenance claimed by women as mother, daughter or wife is not a charity but their rightful entitlement as enshrined in the Indian Constitution.

Annexure I

CHAPTER IX - ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

125. Order for maintenance of wives, children and parents.

- (1) If any person leaving sufficient means neglects or refuses to maintain-
- (a) his wife, unable to maintain herself, or
 - (b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or
 - (c) 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
 - (d) his father or mother, unable to maintain himself or herself,

A Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate ¹⁶[***] as such magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

¹⁷[Provided further that the Magistrate may, during the pendency of the Proceeding regarding monthly allowance for the maintenance under this subsection, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses for proceeding under the second proviso shall, as far

¹⁶. The words "not exceeding five hundred rupees in the whole" omitted by Act 50 of 2001, sec.2 (w.e.f. 24-9-2001).

¹⁷. Ins. by Act 50 of 2001, sec.2 (w.e.f. 24-9-2001).

as possible, be disposed of within sixty days from the date of the service of notice of the application to such person]

Explanation. For the purposes of this Chapter.

(a) minor means a person who, under the provisions of the Indian Majority Act, 1975 (9 of 1875) is deemed not to have attained his majority;

(b) “Wife” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

¹⁸[(2) Any Such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.]

(3) If any Person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole, or any part of each month’s ¹⁹[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case be,] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife’s refusal to live with him.

¹⁸. Subs. By Act 50 of 2001, sec 2, for sub-section (2) (w.e.f. 24-9-2000)

¹⁹. Subs. By Act 50 of 2001, sec 2, for “allowance” (w.e.f. 24-9-2000).

(4) No wife shall be entitled to receive an ⁴ allowance from her husband under this section she is living in adultery, or if, without any sufficient reason, if she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

126. Procedure.

(1) Proceedings under section 125 may be taken against any person in any district-

- (a) where he is, or
- (b) where he or his wife resides, or
- (c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

(2) All evidence to such proceedings shall be taken in the presence of the person against whom an order for payment of maintenance is proposed to be made, or, when his personal attendance is dispensed with in the presence of his pleader, and shall be recorded in the manner prescribed for summons-cases:

Provided that if the Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is willfully avoiding service, or willfully neglecting to attend the court, the Magistrate may proceed to hear and determine the case ex-parte and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 125 shall have power to make such order as to costs as may be just.

127. Alteration in allowance.

²⁰[(1) On proof of a change in the circumstances of any person, receiving, under section 125 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be,

²⁰. Subs. by Act 50 of 2001, sec. 3, for sub-section (1) (w.e.f. 24-9-2001).

the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.]

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent civil court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 125 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if he is satisfied that-

(a) the woman has, after the date of such divorce, remarried; cancel such order as from the date of her remarriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order-

(i) In the case where such sum was paid before such order, from the date on which such order was made,

(ii) In any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to²¹[maintenance or interim maintenance, as the case may be] after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom²²[monthly allowance for the maintenance and interim maintenance or any of them has been ordered] to be paid under section 125, the civil court shall take into account the sum which has been paid to, or recovered by, such person²³[as monthly allowance for the maintenance and

²¹. Subs. by Act 50 of 2001, sec. 3, for "maintenance" (w.e.f. 24-9-2001).

²². Subs. by Act 50 of 2001, sec. 3, for "monthly allowance has been ordered" (w.e.f. 24-9-2001).

²³. Subs. by Act 50 of 2001, sec. 3, for "as monthly allowance in pursuance of" (w.e.f. 24-9-2001).

interim maintenance or any of them, as the case may be, in pursuance of] the said order.

128. Enforcement of order of maintenance.

A copy of the order of ²⁴[maintenance or interim maintenance and expenses of proceeding, as the case may be,] shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to his guardian, if any, or to the person to ²⁵[whom the allowance for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be,] is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the ²⁶[allowance, or as the case may be, expenses, due].

²⁴. Subs by Act 50 of 2001, sec. 4, for "maintenance" (w.e.f. 24-9-2001).

²⁵. Subs by Act 50 of 2001, sec. 4, for "whom the allowance" (w.e.f. 24-9-2001).

²⁶. Subs by Act 50 of 2001, sec. 4, for "allowance due" (w.e.f. 24-9-2001).

Annexure II: Case Summaries

1.

Name: Savita Age: 58 years Religion/Caste: Hindu/Tharu tribe Court: Lucknow Children: 2 sons Occupation: Housewife	Husband's Name: Manoj Legal Recourse: 125 CrPC Any order passed: Interim order u/s 125 CrPC Present Status of the case: Still pending
Case Summary	
<p>Savita and Manoj got married on 05 June 1971. Manoj worked as Senior Accountant in Indian Postal Services and is now getting pension of Rs 4860/- per month as per his statement. They had two sons. In 2006, Savita filed a case u/s 125 CrPC against her husband. In her petition she stated that their's was a turbulent marriage due to the violent nature of Manoj. She stated that her husband subjected her to mental and physical cruelty due to which she became ill. Now her husband has contracted second marriage and is living separately. Her husband denied all these charges and cited Savita's own violent nature as the reason for not living together. The case was contested for a long time (6 years) and in September 2011 the family court ordered her husband to pay Rs. 2000/- only per month as interim maintenance during the pendency of trial.</p>	

2.

Name: Swarna Lata Age: 48 years Religion/Caste: Hindu/Dalit Court: Lucknow Children: 2 sons Occupation: Housewife	Husband's Name: Swami Nath Legal Recourse: 125 CrPC Any order passed: Final order Present Status of the case: Disposed
Case Summary:	
<p>In 1982, Swarna Lata got married at the tender age of 10 years to 22 year old Swami Nath. After a year of marriage, she was sent to her marital home where she had two sons. From the onset she suffered physical and mental cruelty at the hands of her husband and in-laws on account of bringing dowry less than their expectations. The violence was so brutal that in one instance her bone was fractured. Finally, she was thrown out of the house along with children in order to force her father to give Swami Nath the money received by him upon retirement. The family tried to resolve the issue through social mediation. Having no option left, in the year 1995 she approached court u/s 125 CrPC demanding maintenance for herself and her two sons. In 2005, court decided the matter and ruling <i>ex-parte</i> in favour of Swarna Lata and her sons directed her husband to pay them maintenance in the arrears of 500, 300 and 200 INR respectively per month from the date of application.</p> <p>However, her husband refused to comply with the above-mentioned order. Swarna Lata is living in utter poverty and her health has taken a toll in this fight. She had instituted recovery proceedings due to which her husband came to court and deposited 200 INR towards the realization of maintenance order. Still, he has to pay 2 lakhs INR to Swarna Lata towards the compliance of this order.</p>	

3.

Name: Rehana Sultan Age: 39 years Religion/Caste: Muslim/Pathan Court: Lucknow Occupation: Housewife	Husband's Name: Faheem Legal Recourse: 125 CrPC Any order passed: Interim order for the maintenance of daughters Present Status of the case: Out of court settlement between the parties
Case Summary:	
<p>In 2004, Rehana got married to Faheem at Allahabad. At the time of marriage, Faheem was working as physical education and games teacher at Clemants College, London, England (UK). After marriage Rehana went to London to live with her husband. After a brief period of stay during which she gave birth to a baby girl and became very ill, she was sent back to Allahabad. Back in matrimonial house, she faced physical and mental cruelty at the hands of her husband and in-laws. Rehana and her family was harassed with repeated monetary demands. Some of which were fulfilled by her father but there came a time when he became unable to fulfil their monetary demands further. Finally in 2008 Rehana was send back to her natal house as Faheem said that he had lost his job in London and is now going to look for job opportunities in Oman. Later, Rehana came to know that Faheem is in London working on the same job. As Faheem has deliberately broken all contacts Rehana approached the court u/s 125 CrPC demanding maintenance for herself and her baby (Rehana was pregnant at the time and gave birth to a baby girl; later in February 2009 she filed petition for maintenance u/s 125 CrPC on behalf of that girl too). In response to the petition, Faheem appeared before the court and admitted that he earns 70,000 INR per month. The court took cognizance of the matter and in February 2009 and October 2010 ordered interim maintenance in the arrears of 5000 and 1500 INR for both of her daughter. Later, in 2011 matter was resolved by out of court settlement between the parties who are now residing amicably with each other.</p>	

4.

Name: Mohini Age: 23 years Religion/Caste: Hindu/General Court: Lucknow Occupation: Student	Father's Name: Mohit Legal Recourse: 125 CrPC Any order passed: Interim order Present Status of the case: Still pending
Case Summary:	
<p>In 2002, Manorama on behalf of her daughter Mohini approached the court u/s 125 CrPC demanding maintenance from Mohini's father. Mohit took the plea that he is ready to maintain both his wife and daughter if they agree to reside with him at Dehradun. The court took cognizance of the matter and in February 2005 directed Mohit to pay a sum of Rs. 500 per month to Manorama towards the maintenance of Mohini from the date of the order. Dissatisfied with the order, Manorama filed a revision petition which considered the matter and vide its order dated 24 April 2012 revised the sum from measly 500 INR to 5000 INR per month. Presently, Mohini lives with her mother and is now pursuing her graduation in Computer Application. Mohit is making regular payment of the maintenance.</p>	

5.

Name: Sunita Age: 55 years Religion/Caste: Hindu/General Court: Lucknow Occupation: Housewife	Husband's Name: Punit Legal Recourse: 125 CrPC Any order passed: Interim order Present Status of the case: Still pending as opposite party can't be traced
Case Summary:	
<p>Sunita was married to Punit in March 1976. From the onset of the marriage she faced domestic violence at the hands of her husband and in-laws. In 1988 Sunita's husband was suspended from his job at <i>Gram Niyojan</i> department. From that day, citing his suspension as a cause he send Sunita back to her natal home promising that as soon as his suspension was revoked he will call Sunita back after making suitable residential arrangements. Here, it is pertinent to mention that during suspension time Punit was entitled to half of his salary, which he refused to share with his wife. In 2000, Punit's suspension was revoked but he refused to maintain Sunita. In the meantime, Sunita's parents died and her siblings refused to take care of her. In 2008 left with no other option Sunita approached court u/s 125 CrPC demanding maintenance from her husband. The court waited for her husband to respond to the petition but when he failed to do so, the court took cognizance of her grievance and vide its <i>ex-parte</i> order dated February 2011 directed her husband to pay Rs. 2000 per month towards her maintenance from the date of the order.</p> <p>However, her husband is not abiding with court's order and though recovery warrant has been issued four times up till now, the same are awaiting execution. Here it is interesting to note that though the husband was a state government employee still the court is not unable to trace his whereabouts nor are they directing his department to deduct the requisite amount and send it to court.</p>	

6.

Name: Seema Age: 32 years Religion/Caste: Hindu/General Court: Lucknow Occupation: Housewife	Husband's Name: Bharat Legal Recourse: 125 CrPC Any order passed: Not yet Present Status of the case: Pending
Case Summary:	
<p>Seena got married in May 2005 to Bharat. From the onset of marriage she was tortured on account of bringing dowry less than her in-law's expectations. In Jan 2006 she was forcibly sent back to her natal house so that her parents would be pressurized to fulfil the demands of her in-laws. Later her husband came to her rescue and for a short while they lived separately but then he disappeared. Having no option left she filed for maintenance u/s 125 CrPC in July 2007 as her husband was earning handsomely through his job as Technician in Loading Section of Reliance Shipping Company at Haldia, Jamnagar (West Bengal). The case is still pending in the family court and no interim relief has been provided so far. Seema had heard that her husband has contracted a second marriage but has no means to verify this information.</p>	

7.

Name: Meena Age: 34 years Religion/Caste: Hindu/General Court: Lucknow Children: 1 boy (15 yrs), two girls (12 & 10 yrs) Occupation: Housewife	Husband's Name: Vikas Legal Recourse: 125 CrPC Any order passed: Interim order for Meena and her 3 children Present Status of the case: Pending, interim order yet to be complied
Case Summary:	
<p>Meena and Vikas got married on 22.02.1996. From the start her husband and in-laws subjected her to physical and mental cruelty on account of bringing dowry less than their expectations. They demanded fifty thousand rupees and 5 <i>tola</i> gold from her father. Her father had no means to fulfill this demand so he tried to reason with her in-laws but to no effect. Time and again they raised this demand and tortured Meena on account of it. At one time, her husband shot at her but the bullet missed her and her life was saved. In another instance of beating, Meena's husband thrashed her so fiercely with a slipper that her left ear permanently damaged and now she hears from only one ear.</p> <p>During this period Meena gave birth to 1 son and 2 daughters. However, the demand for 50,000 INR was still made by her husband and to pressurize her father they left her and her children at the natal house. In 2006, Meena approached court u/s 125 CrPC demanding maintenance for herself and her children. The court took cognizance of the matter vide its <i>ex-parte</i> order dated October 2006 directed her husband to pay a sum of 600 INR towards Meena's maintenance and 500, 400 and 300 INR towards the maintenance of her three children as interim relief. However, Vikas till now had not complied with the court order. He has to pay more than 1 lakh 50 thousand INR towards the fulfilment of maintenance order. Meena has not instituted any recovery proceedings. Her financial condition is very bad.</p>	

8.

Name: Minaxi Age: 26 years Religion/Caste: Hindu/Dalit Court: Lucknow Occupation: Housewife	Husband's Name: Sanjay Legal Recourse: 12 PWDVA Any order passed: Protection, Maintenance, Compensation order Present Status of the case: Disposed off, recovery proceedings instituted
Case Summary:	
<p>Minaxi got married to Sanjay on 23/04/2004 when she was just 17 years old; from the onset of marriage Minaxi was subjected to physical and mental cruelty on account of bringing dowry not as per the expectation of her in-laws. When she became pregnant, her mother-in-law pushed her from the stairs which resulted in her losing her month old fetus. In April 2009 Minaxi's in-laws forcibly evicted her from the marital house. She lodged a criminal complaint against her in-laws and also approached the court under PWDVA for appropriate remedy. The court took cognizance of her plight and issued an interim order vide its order dated 06.01.2011 directing Sanjay to pay her a sum of 2500 INR per month as maintenance. Later the court vide order its dated 03.10.2012 disposed off the case by issuing ex-parte direction to the opposite party not to commit domestic violence upon Minaxi and to pay 1500 INR per month as maintenance and 20,000 INR per month only as compensation for the emotional distress she was forced to suffer at the hands of the opposite parties. Unfortunately, Sanjay has not complied with any of these orders (interim or final) and hence Minaxi has instituted recovery proceedings against him on 27.03.2013.</p>	

9.

Name: Neelam Age: 28 years Religion/Caste: Hindu/Tharu tribe Court: Lucknow Children: 1 son Occupation: Housewife	Husband's Name: Vasudev Legal Recourse: 125 CrPC, 24 HMA & 12 PWDVA Any order passed: Interim maintenance for son u/s 125 CrPC and maintenance for Maya u/s 24 HMA Present Status of the case: Pending
Case Summary:	
<p>In May 2000, Neelam's marriage was solemnized at the tender age of 14 to 20 year old Vasudev. She belonged to a lower middle class family and her father worked as labourer. In contrast, Vasudev was working as fourth class employee in Observation Home, Lucknow [established under Juvenile Justice (Care and Protection of Children) Act 2009]. From the start, she suffered violence at the hands of her husband on account of bringing dowry less than his expectation. He demanded one gold chain and motor cycle from her father. In 2005 she approached <i>Mahila Thana</i> when Vasudev after giving her severe beating threw her out of the house. Here, social mediation was held and Vasudev agreed to rectify his behavior. Consequently, Maya again started living with Vasudev. For a while everything was all right but again Vasudev started torturing her with the demand of gold chain and motor cycle. On Neelam's firm refusal to communicate this demand to her father as he was unable to fulfil the same, he threw a 6 month pregnant Neelam out of the house. From that day onwards, Vasudev refused to make any contact with Neelam and even the birth of a son failed to compel him. He filed a petition u/s section 9 and later u/s 13 Hindu Marriage Act 1956 against Neelam. On the other hand, Neelam's financial condition was so bad that she was not able to pursue these cases but later on after getting help and support from an NGO she approached court u/s 125 CrPC and section 24 Hindu Marriage Act demanding maintenance for herself and her son. The court considered her case and awarded 500 INR towards her son's maintenance (interim from the date of order) u/s 125 CrPC and 2000 INR towards her own maintenance u/s 24 HMA from the date of application. For a while Vasudev complied with the court's order but later he started defaulting. The recovery proceedings are yet to be filed. Meanwhile the case u/s 125 is still pending in the court. In 2012, Vasudev again approached the court under Protection of Women from Domestic Violence Act demanding Protection and Residence order against Vasudev.</p>	

10.

Name: Nisha Age: 28 years Religion/Caste: Hindu/OBC Court: Lucknow Children: a son and daughter Occupation: Housewife	Husband's Name: Kumar Legal Recourse: 125 CrPC, PWDVA Any order passed: Interim maintenance for herself and her children Present Status of the case: Pending
Case Summary:	
<p>In May 2002, Nisha's marriage was solemnized with Kumar. They had two children (a son and daughter). From the onset, Nisha had suffered domestic violence at the hands of her husband and in-laws on account of bringing dowry less than their expectation. Even birth of two children failed to deter them and they continued with their violent behavior. Left with no options, Nisha shared the problem with her parents who contacted Kumar and shared their inability to satisfy his demands. This refusal by her parent enraged Kumar; he attacked Nisha and threw her out of the house along with children. He filed a case for restitution of conjugal right u/s 9 HMA against Nisha to protect himself.</p> <p>Thrown out of the house along with the children, Nisha has no money to pursue legal proceedings but this did not dampen her fighting spirit. In 2007 she contacted a civil society group and with their help approached the court to claim maintenance for herself and her children u/s 125 CrPC. The court considered her case and vide its order dated 29.04.11 directed Kumar to pay her 500 INR and children 400 INR each per month towards maintenance. Kumar objected to the grant of interim maintenance which is still pending in the court.</p> <p>In the meantime, court considered Nisha's application under PWDVA and vide its order dated 03.10.2012 ordered Kumar to pay a sum of Rs. 2000 to Nisha as interim maintenance until the final disposal of the case. As for now, Nisha has instituted recovery proceedings against Kumar as he has failed to comply with the order passed u/s 125 CrPC, which are pending before the court.</p>	

11.

Name: Sameera Age: 38 years Religion/Caste: Hindu/OBC Court: Lucknow Children: 2, a girl and a boy Occupation: Housewife	Husband's Name: Girish Legal Recourse: 125 CrPC Any order passed: Interim maintenance Present Status of the case: Pending, recovery proceeding instituted
Case Summary:	
<p>Sameera belongs to a middle class educated family. Her father worked as driver in Northern Railways. She got married to Girish in 1994 who was also working in Indian Railways. Similar to the situation faced by other Indian women, she suffered domestic violence on account of bringing dowry less than her husband's expectation. He specifically asked for a refrigerator, washing machine and 1,50,000 INR in cash from her father. When his demand was not fulfilled he committed physical and emotional violence upon Sameera. In the meantime Sameera gave birth to a baby girl and boy. Even the birth of children failed to make Girish amend his ways and he continued abusing Sameera. He started pressurizing Sameera's father to transfer the ownership of his house to him. When he refused, he threw Sameera out of the house along with the children on January 31, 2007. Sameera had suffered injuries and reported the crime at Mahila Thana, Hazratganj.</p> <p>From that day onwards, Sameera is living separately. In February 2007 she approached court u/s 125 CrPC claiming maintenance for herself and her children. The court considered the matter and vide its <i>ex-parte</i> order dated 20.10.2012 directed her husband to pay a sum of 3000 INR per month (1000 INR for each) towards their maintenance from the date of application. The award of maintenance order has made no impact on Sameera's life as Girish is not abiding by the court order. He has not only a fraction of the amount and more than half of it remains unpaid. Sameera has instituted recovery proceedings u/s 125(3) CrPC against her husband. Ironically, Girish is living in the house which had been gifted to Sameera by her father.</p>	

12.

Name: Pushpa Age: 41 years Religion/Caste: Hindu/Gurjar Court: Lucknow Children: 5 (4 boys and 1 girl) Occupation: Housewife	Husband's Name: Makhan Legal Recourse: 125 CrPC, PWDVA Any order passed: Maintenance for children and Protection and Residential order Present Status of the case: Pending
Case Summary:	
<p>Pushpa and Makhan got married in 1979 and have 5 (4 sons and 1 daughter) issues from the wedlock. Presently, Makhan worked as peon in Home guard department earning 6788 INR (as per the salary slip of May 2007) per month. Pushpa's youngest son is born paraplegic and can't use the left side of his body. From the first day onward Pushpa was suffering mental, physical and financial violence at the hand of her husband. The children also bore the burnt of such behaviour. Having no option left Pushpa filed a case for maintenance u/s 125 CrPC on 17/12/2005. Makhan appeared before the court and claimed that Pushpa is living in adultery. He also stated that the house in which Pushpa is residing is given on rent which is collected by her. He also coerced her eldest son (when he became 19 years old) into giving the same statement. The court took cognizance of the matter and vide its order dated 15.02.2010 directed Makhan to pay Pushpa 300 INR each for all the children during the pendency of the case. During all this time both the parties were residing at the same house.</p> <p>In 2007 again her husband assaulted her repeatedly on one pretext or other and asked her to leave the house or take the case back. This time, Pushpa filed a case u/s 12 PWDVA and requested for a protection order so that her husband may be restrained from forcefully evicting her from marital house. The court took cognizance of her situation and issued an interim order thereby restraining her husband from forcefully evicting her out of the house.</p> <p>However, the implementation of order was an uphill task. When Pushpa approached the nearby police station to help her out by showing them the judicial order they refused to do so as stating that this is not their job 'aadesh ka anupalan hamara kam nahin'. Again she approached the court which took serious notice of this issue and ordered the station in charge of that particular police station to ensure the implementation of the court's order and report about the same within 10 days. The case is still pending.</p>	

13.

Name: Haseena Begum Age: 35 years Religion/Caste: Muslim/Pathan Court: Banda Children: 1 daughter Occupation: Housewife	Husband's Name: Aamir Legal Recourse: 125 CrPC Any order passed: Final maintenance for Haseena and her daughter Present Status of the case: Recovery proceedings initiated with no results
Case Summary:	
<p>Haseena and Aamir were married in November 1995. They have a daughter out of this relationship. Aamir worked as building contractor in New Delhi earning 10,000-15,000 INR per month. From the beginning, Haseena faced harassment at the hands of her husband and in-laws for bringing dowry less than their expectations. Later, when she went to New Delhi to reside with him, she came to know about another dark side of her husband. Aamir was working as pimp forcing/seducing young girls into sex work. He tried to force Haseena into the same profession but she resisted and so Aamir sent her back to her marital house. After a few days she was thrown out of the house along with her daughter.</p> <p>After two years, in August 2004, Haseena filed an application u/s 125 CrPC demanding maintenance for herself and her daughter. The court took cognizance of her plight and vide its order dated July 2009 ordered Aamir to pay 1500 INR per month towards Hassena and Aamir's maintenance from the date of the order. Haseena filed a revision petition against the said order demanding that the maintenance should be awarded from the date of application and not from the date of order. The Session Court vide its order dated September 2010 considered her plea and revised the order directing Aamir to pay maintenance from the date of application.</p> <p>However, Aamir failed to comply the order; Haseena approached the court for his arrest and seizure of property towards the satisfaction of the order. The court issued multiple recovery and arrest warrants against her husband directing the Superintendent of Police, Banda to comply with the same. However, the police failed to pursue any of these warrants; hence the order which was passed 4 years ago in the proceedings which was instituted 9 years age is still in the process of enforcement.</p> <p>Meanwhile, Aamir has contracted another marriage and is still living in New Delhi.</p>	

14.

Name: Nagina Age: 40 years Religion/Caste: Hindu/OBC Court: Karvi, Chitrakoot Children: 1, girl Occupation: Housewife	Husband's Name: Prakash Legal Recourse: 125 CrPC Any order passed: Interim maintenance Present Status of the case: Pending on revision
Case Summary:	
<p>Nagina and Prakash's marriage was solemnized approximately 18 years ago. A daughter was born out of this relationship. Prakash worked as <i>Ameen</i>. After marriage Nagina came to know about Prakash drinking and gambling problems. Due to these problems Prakash provided no money to Angina and whenever she demanded he used to beat her violently. One day, Prakash threw both Nagina and her daughter out of the house. Nagina lodged a police complaint against Prakash. Later he has relationship with another woman with whom he had two sons. In the year 2007 Nagina approached court and filed cases under PWDVA and u/s 125 CrPC demanding maintenance for herself and her daughter.</p> <p>Prakash admitted to the court that he has contracted another marriage without getting divorce from Nagina. The court held that it is the duty of husband to maintain his wife and children and ordered Prakash vide its order dated October 2007 under PWDVA to pay 1500 INR towards the maintenance of his wife and daughter, not to sell his property and arrange for a house for them. The ordered was later stayed by the High Court except for the direction regarding the sale of property where the case is pending.</p> <p>Similarly, in the case filed u/s 125 CrPC the court took cognizance of Nagina's plight and vide its order dated January 2010 directed Prakash to pay 3000 INR (2000 INR for Nagina + 1000 INR for daughter) per month from the date of the order. This order was challenged by Prakash in Session Court which rejected his plea vide its order dated June 2011. Against this rejection, Prakash moved the High Court, Allahabad Bench which stayed the order. Presently, the matter is pending.</p>	

15.

Name: Shyama Age: 45 years Religion/Caste: Hindu/Brahmin Court: Lucknow Children: 1, a girl Occupation: Housewife	Husband's Name: Shravan Legal Recourse: 125 CrPC Any order passed: Interim maintenance for daughter Present Status of the case: Pending, recovery proceeding instituted
Case Summary:	
<p>Shyama and Shravan's marriage was solemnized in November 2007. Shravan was working as Professor at IISC College, Kalyanpur Lucknow earning 60,000 INR per month. They have a daughter out of this relationship. In the beginning, everything was all right but after a while Shyama started facing violence at the hands of her husband and in-laws on one pretext or another. They started placing monetary demands upon her natal family; non-fulfillment of which led them to commit physical, financial and emotional violence upon Shyama. She patiently bore all these cruelties in order to save her marriage.</p> <p>In August 2011 Sanjay along with her family assaulted Shyama on account of a dowry demand. Shyama sustained grievous injuries and had to obtain medical help for their treatments. She lodged a complaint against her husband and in-laws about it in the nearest police station. After the lodging of complaint, the violence intensified; though living in the same house her husband refused to spend a single rupee towards their maintenance. Left with no options, Shyama approached court vide an application dated December 2012, u/s 125 CrPC demanding maintenance for herself and her daughter. The court considered her plea and ordered her husband to pay an interim maintenance of 400 INR per month towards the maintenance of daughter. A year has been passed but he has not paid any money. Shyama has instituted recovery proceedings which are still pending.</p>	

16.

Name: Muskan Age: 27 years Religion/Caste: Hindu/Dalit Court: Allahabad Occupation: Aaganwadi worker	Husband's Name: Ram Legal Recourse: 125 CrPC Any order passed: No order Present Status of the case: Pending
Case Summary:	
<p>Muskan and Ram's marriage was solemnized in March 2006. Ram has a general store and agriculture land. From the beginning, Muskan was subjected to violence on account of bringing dowry less than their expectations. They demanded 50,000 INR from her family. Muskan's family tried to reason with her but when they remain adamant Muskan's family took loan of 50,000 INR for them. This satisfied Ram's family for a while but again they started demanding money from them. Muskan's family tried to resolve the situation through social mediation but it bore no results and in February 2007 when Muskan was in her natal house they asked her not to come back. Left with no options, she approached the court u/s 125 CrPC demanding maintenance from Ram vide her application dated February 2010. The case is still pending in the court and no order has been passed uptill now.</p>	

17.

Name: Asmita Age: 25 years Religion/Caste: Hindu/Dalit Court: Kanpur Children: 1, a boy Occupation: Housewife	Husband's Name: Vishal Legal Recourse: PWDVA Any order passed: Interim maintenance Present Status of the case: Pending, recovery proceeding instituted
Case Summary:	
<p>Asmita and Vishal got married in December 2004 at Arya Samaj Temple. From the beginning, Asmita faced violence on account of bringing dowry less than their expectations. With time the violence got fierce and in August 2009 Vishal and his family threw Asmita out of the house after physically assaulting her. In September, 2009 Asmita approached the court under Protection of Women from Domestic Violence Act 2007 demanding maintenance, medical expenses and residential order. The court considered the matter, and vide its order dated September, 2012 ordered her husband to pay 800 INR per month as maintenance during the pendency of case.</p> <p>Up till now, Vishal has not complied with the maintenance order. Asmita has instituted recovery proceedings against him.</p>	

18.

Name: Farhat Age: 25 years Religion/Caste: Muslim Court: Lucknow Occupation: Housewife	Husband's Name: Hameed Legal Recourse: 125 CrPC Any order passed: Present Status of the case: Pending
Case Summary:	
<p>Farhat and Hameed's marriage was solemnized in April, 2009. Hameed worked as a tailor. After just two days of marriage, Hameed and his family started making additional demand upon Farhat's family. They specifically asked for a motor cycle, gold chain and 50,000 INR. When Farhat's family failed to comply with these demands they started committing physical violence upon her. In September 2009, after beating her fiercely, they left Farhat on the street. The physical violence was so fierce that Farhat suffered a miscarriage which gravely affected her health.</p> <p>From that day onwards, Farhat is living with her father. Hameed had not made any attempt to contact her. Left with no options, she approached court u/s 125 CrPC demanding maintenance from Hameed. Her petition is still pending in the court and no order has been passed so far.</p>	

19.

Name: Reema Age: 40 years Religion/Caste: Hindu Court: Lucknow Children: 1, a boy Occupation: Housewife	Husband's Name: Ashok Legal Recourse: 125 CrPC, Sec 24 HMA Any order passed: Interim maintenance Present Status of the case: Pending
Case Summary:	
<p>In February 2006 Reema approached court u/s 125 CrPC demanding maintenance from her husband. She alleged that her husband was living with her brother's wife and is not maintaining her. Her husband in his statement stated he is already paying her 800 INR under section 24 Hindu Marriage Act out of his pension which is 2100 INR.</p> <p>The case is still pending in the court and no orders has been passed as of now.</p>	

20.

Name: Shanti Age: 31 years Religion/Caste: Hindu/OBC Court: Lucknow Children: 1, a boy Occupation: Social worker	Husband's Name: Ramesh Legal Recourse: 125 CrPC Any order passed: Interim maintenance of 200 INR for herself and her son. Present Status of the case: Pending, recovery proceeding instituted
Case Summary:	
<p>In November 2001 Shanti and Ramesh secretly got married as Ramesh feared active opposition from her family on account of it being inter caste alliance. In 2002 Ramesh got a job in Gujarat and they started living together. A year later Shanti gave birth to a baby boy. When Shanti and Ramesh openly started living together, Ramesh's father came to know about their marriage and forcibly took Ramesh back. Back at home, they coerced Ramesh into denouncing this marriage. Ramesh became influence and decided to do the same. He started threatening Shanti in order to force her to have an abortion. But Shanti persisted and lodged criminal cases against her father-in-law and Ramesh.</p> <p>In January 2004, Shanti instituted a case u/s 125 CrPC demanding maintenance for herself and her baby. Ramesh in his written statement denied the existence of any marriage. The court considered the matter and vide its order dated October, 2004 directed Ramesh to pay 350 INR each to Shanti and her son. Ramesh filed an objection against the said order and after considering the same, the court revised the interim order vide its order dated January, 2007 directing Ramesh to pay 200 INR each to Shanti and her son from the date of application.</p> <p>Ramesh failed to comply with the maintenance order and only after the issuance of multiple recovery warrants from court started paying the same. The case is still pending in the court.</p> <p>Later in 2008 Shanti has also filed a case under PWDVA which is pending before the court.</p>	

Name: Manju Age: 39 years Religion/Caste: Hindu Court: Banda Children: 4, (3 boys + 1 girl) Occupation: Housewife	Husband's Name: Viraj Legal Recourse: 125 CrPC Any order passed: Interim maintenance of 400 INR for herself and 300 INR for each child Present Status of the case: Pending, recovery proceeding instituted
Case Summary:	
<p>Manju and Viraj's marriage was solemnized in May, 1989. They had 3 boys and one girl from this relationship. Here, it is relevant to mention that Manju's sister was married to Viraj's brother who tried to burn her alive. Later, a case against her sister's husband was instituted in which Manju was a witness against him. Viraj started harassing Manju to pressurize her family to take the case back. Upon her refusal, he threw her out of the marital house along with the children. Left with no options, in June 1999, Manju approached court u/s 125 CrPC demanding maintenance from her husband. The court considered her petition and vide its <i>ex-parte</i> order dated 13.04.2001 ordered Viraj to pay a sum of 400 INR per month towards Manju and 300 INR per month for each of the 4 children from the date of the application.</p> <p>For a while Viraj complied with the order but later on started defaulting. Manju instituted recovery proceedings against him under which recovery warrants were issued and instituted proceedings u/s 9 of Hindu Marriage Act for restitution of conjugal rights. However, the court accepted Manju's justification for not living together as she does not feel safe living with the man whose brother tried to burn her sister and dismissed the suit. Manju has instituted recovery proceedings against Viraj in which recovery warrant was issued but still needs to be executed by the police.</p>	

22.

Name: Kiran Age: years Religion/Caste: Hindu Court: Kanpur Children: 1, daughter Occupation: Housewife	Husband's Name: Kamal Legal Recourse: 125 CrPC Any order passed: Present Status of the case: Pending
Case Summary:	
<p>Kiran and Kamal's marriage was solemnized in April 2007. Kamal ran a fruit juice store. From the onset, Kamal and her family started abusing Kiran for bringing dowry not as per their expectations. They specifically asked for a gold chain, Hero Honda motor cycle and 50,000 INR. Even the birth of a daughter failed to make Kamal amend his ways.</p> <p>Kiran's parent tried to resolve the issue through social mediation but to no avail. Kamal and her family persisted with their demands. Finally in October 2009 after a brutal physical assault they threw Kiran and her 15 month old baby girl out of the house. They stated that she can come back only if their abovementioned demand is fulfilled. Left with no options, in July 2010 Kiran filed a case u/s 125 CrPC against her husband demanding maintenance for herself and her girl.</p> <p>3 years had been passed, the matter is pending before the court and no order has been passed uptill now.</p>	

23.

Name: Savitri Age: 21 years Religion/Caste: Hindu/Kurmi Court: Karvi, Chitrakoot Occupation: Housewife	Husband's Name: Naman Legal Recourse: 125 CrPC Any order passed: Present Status of the case: Pending
Case Summary:	
<p>In May 2007 Savitri approached court u/s 125 CrPC demanding maintenance from her husband. In her petition she stated that their marriage was solemnized 5 years ago but Naman became angry as the dowry was not as per his expectation. He refused to take her with him and is now planning to contract second marriage. Naman in his statement challenged the maintainability of the petition as he alleged that Savitri has relations with other men on account of which she got pregnant before marriage. Savitri filed objection against this which was accepted by the court and Naman revision was dismissed. Against this dismissal, Naman approached High Court, Allahabad bench where the matter is presently pending.</p>	

24.

Name: Nikhat Age: 36 years Religion/Caste: Muslim Court: Lucknow Occupation: Housewife	Husband's Name: Ali Legal Recourse: 125 CrPC Any order passed: Present Status of the case: Pending
Case Summary:	
<p>Nikhat got married to Ali in April 2004. In April 2005 she gave birth to a daughter. After 3 months of marriage she realized that Ali's first wife is alive and living with her. Ali physically abused Nikhat and tried to force her in to sex work. Ali was working in UPSRTC and getting a pension of 10,000 INR but still he is not providing maintenance to her and her daughter. Left with no options, she approached court u/s 125 CrPC vide an application dated May 2008.</p> <p>The case is pending in the court and no order has been passed up till now.</p>	

25.

Name: Shehla Age: 36 years Religion/Caste: Muslim Court: Lucknow Children: 3, (1 girl and 2 boys) Occupation: Housewife	Husband's Name: Hasan Legal Recourse: 125 CrPC Any order passed: Interim order providing maintenance of 400 INR per month for each child Present Status of the case: Pending
Case Summary:	
<p>Shehla and Hasan's Nikah was solemnized in October 1992. They had three children from this relationship. Hasan worked as tailor and had a tailoring shop. In the beginning everything was all right, but as the time went by Hasan and his family started physically abusing Shehla to force her family to give him a motor cycle and 40,000 INR cash. Her family tried to resolve the issue through mediation but Hasan and his family remained adamant. Finally, in July 2005 they threw Shehla along with children out of the house in order to pressurize her family to fulfill their demands. From that day onwards, Shehla is living with her parents. In July 2005, she approached court u/s 125 CrPC demanding maintenance for herself and her children. The court considered the matter and vide its <i>ex parte</i> order dated September 2005 ordered Hasan to pay a sum of 400 INR per month for each child.</p> <p>However, Hasan refused to abide by the order of the court, hence Shehla instituted recovery proceedings against him and only after the issuance of recovery warrant he started paying the same. The case is still pending in the court.</p>	

26.

Name: Nazeema Age: 28 years Religion/Caste: Muslim Court: Muzaffarnagar Children: 1, a daughter Occupation: Social worker	Husband's Name: Israr Legal Recourse: 125 CrPC Any order passed: Final order, 1000 INR for herself and 500 for daughter Present Status of the case: Disposed off, recovery proceedings instituted
Case Summary:	
<p>Nazeema and Israr's Nikah was solemnized in March 2004. She had a daughter from this relationship. Her husband was <i>Hafiz E Quran</i> doing Imamat in the Mosque. In addition he also had furniture business. From the onset, her husband and in-laws started abusing her for bringing dowry less than their expectation. They demanded 50,000 INR in cash from her father. When Nazeema's father expressed her inability to pay the same, they threw two months pregnant Nazeema out of the marital house.</p> <p>Nazeema's difficulties did not end there; in August 2007 her in-laws assaulted her in Muzaffarnagar. Nazeema lodged an FIR against all the perpetrators. In October 2007 Nazeema moved court u/s 125 CrPC demanding maintenance from her husband.</p> <p>Israr admitted in the court that for the past 3 years he has not paid a single rupee towards the maintenance of Nazeema and her daughter. The court considered the matter and vide its order dated 19.01.2009 disposed off the case with the direction that Israr will pay 1500 INR (1000 for Nazeema and 500 for daughter) per month to Nazeema from the date of application.</p> <p>Israr refused to comply the order of the court; though recovery proceedings are instituted but Nazeema has not received any money uptill now.</p>	