REASSERTING THE SECULAR CHARACTER OF MAINTENANCE LAW: A CASE COMMENT ON SHAHJAHAN V. STATE OF UTTAR PRADESH AND ANOTHER

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ABSTRACT

Shahjahan v. State of UP and Another is a significant decision by the Hon'ble Supreme Court which examines the denial of maintenance under Section 125 CrPC amid disputes regarding the decisions given by personal religious forums. The case presents a conflict between the arbitrary fatwas imposing socially coercive and morally regressive obligations and the constitutionally grounded principles of justice and equality before the law. In its decision, the Court analysed the purpose and practical implementation of the maintenance laws and refused to uphold the legal validity of the extra judicial religious adjudications in India.

Introduction:

Maintenance under Section 125 CrPC is one of the crucial legislations to protect the rights of women, children and dependent parents. The provision legally operates independent of the personal, religious laws and moral judgments upholding the constitutional commitment to dignity and social justice. However, in practice, maintenance claims are often influenced by religious laws, social stigma and patriarchal viewpoints which make it difficult and financially draining for women to fight for their rights.

Recently, in the case of *Shahjahan v. State of UP*, the Hon'ble Supreme Court has taken a commendable stance in reinforcing the constitutionally guaranteed principles of justice and equality by granting maintenance under S.125 CrPC to a Muslim woman who was repeatedly denied maintenance initially by the Court of Dar-ul Qazi, the Family Court and finally the High Court. This article extensively studies the facts of the case, analyses the rationale of the Court

and finally offers a critical analysis of the broader social and legal implications.

Facts[1]

The Appellant wife (*hereinafter referred to as* "**Appellant**") and the Respondent husband (*hereinafter referred to as* "**Respondent 2**") entered into a wedlock in the year 2002 and had two children. Subsequent to this, the Respondent 2 filed a divorce suit against the Appellant in the year 2005 wherein the Appellant alleged that the husband beat her and turned her out of the matrimonial home. Further, the wife filed for divorce in court of Dar-ul Qazi, Bhopal, Madhya Pradesh which was dismissed due to a mutual compromise between the two parties.

In the year 2008, the Respondent 2 again filed for divorce in the court of Dar-ul Qazi. The appellant filed a suit under S.125 CrPC and requested maintenance of Rs. 5000/- per month for herself and Rs. 1,000/- per month for each child. The divorce suit of Respondent 2 was allowed and Talaqnama was prepared, though the request for grant of maintenance was rejected.

The Family Court vide order, partially allowed the petition and granted maintenance for the children, but denied maintenance for the Appellant premising on the fact that she was herself the reason for the disputes and left the matrimonial home without a reasonable cause.

Aggrieved by the decision, the Appellant approached the Hon'ble High Court through a Criminal Revision Petition wherein the Court dismissed the revision petition citing that the Appellant was living separately from the Respondent 2 without sufficient cause.

Aggrieved by the decision of the High Court, the Appellant preferred a Criminal Appeal before the Hon'ble Supreme Court.

Arguments Presented by the Appellant:

The legal counsel on behalf of the Appellant argued that the previous courts grossly erred in not granting maintenance to the appellant. It was submitted that the appellant was an illiterate woman with no source of income and hence, was in dire need of the requested maintenance. The counsel further emphasized that there was no evidence showing that Respondent 2 was willing to continue the marriage which was evident as he had filed repeated divorce suits before

[1] Shahjahan v State of U.P. and Another, (2025) INSC 528 (India).

the Sharia Court.

It was further argued that the previous Courts ignored the appellant's efforts to live peacefully with her husband as established by the compromise agreement submitted before the Family Court. She was eventually turned out of the matrimonial house by the Respondent 2 after being subjected to cruelty and abuse.

The counsel contended that the decision given based on the fact that there was no possibility of dowry demand, owing to this being the second marriage of both the parties was unsustainable before the Court of law.

Finally, the learned counsel prayed for increasing the maintenance provided to the children since it was insufficient given that the Respondent 2's salary had increased.

Arguments Presented by the Respondents:

The State of Uttar Pradesh (*hereinafter referred to as* "**Respondent 1**") represented by the learned counsel argued that maintenance under S.125 CrPC should be denied to the appellant since she was living separately from her husband without any sufficient reason. However, the learned counsel maintained the family court's decision to award maintenance to the daughter and the son.

Respondent 2 failed to appear before the court despite due legal notice sent to him.

Rationale of the Court:

The Court refused to uphold the claim of the Family Court, that the second marriage contracted by the Respondent 2 was an attempt to rehabilitate rather than focusing on dowry. Such an approach taken by the Family Court was vehemently criticized by the Court on the basis of the case of *Nagarathinam v. State*[2] wherein, it was held that the legal institution was not supposed to deliver judgments based on morality and ethics.

The Court further rejected the very basis of the Family Court's judgment, wherein the Family Court premised on the perverse finding that the Appellant had admitted that her alleged misconduct had marked a rift between the parties. The Supreme Court, on the other hand, found

[2] Nagarathinam v State, through the Inspector of Police, (2023) SCC OnLine SC 559 (India).

that the first divorce suit instituted by the husband was dismissed due to the promise of mutual compromise between the parties.

Further, the Court, with due consideration to the increase of the salary of the Respondent 2, refused to deny maintenance.

On the issue of whether maintenance was payable from the date of application or from the date of order, the Court analysed various precedents to arrive at a conclusion.

In the case of *Rajnesh v. Neha*[3], the Court stated that it would be appropriate to grant maintenance from the date of application under section 125(2) CrPC. The practical working of the section would direct the grant of such maintenance without any delay in the best interests of justice and fair play. Further, in the case of *Shail Kumar Devi v. Krishan Bhagwan Pathak*[4], the court held that maintenance should be awarded from the date of application which otherwise, would defeat the legislative intent of the section owing to the enormous delay of the case disposals. Finally, the Court recognised the principle of purposive interpretation of S.125 CrPC, in the case of *Badshah v. Urmila Badshah Godse*[5], wherein it was held that while dealing with the application of a destitute wife or hapless parents or children, with due regards to the principles of social justice enshrined in the Constitution of India, it would be fair to grant maintenance from the date of application. Therefore, owing to the principle of the constitutionally guaranteed dignity of an individual, the Court granted maintenance from the date of application.

Based on the genesis of the above facts and cases, the Court granted maintenance from the date of application to the Appellant subject to due considerations.

Judgment:

The Hon'ble Supreme Court disposed of the appeal with an order to award maintenance to the Appellant from date of filing of the maintenance petition before the Family Court. It allowed maintenance for the children and with due regards to the attainment of majority of the daughter, the court directed the payment up to the date of her attaining majority. Further, the Respondent

[3] Rajnesh v Neha, (2021) 2 SCC 324 (India).
[4] Shail Kumari Devi v Krishan Bhagwan Pathak, (2008) 9 SCC 632 (India).
[5] Badshah v Urmila Badshah Godse, (2014) 1 SCC (Civ) 51 (India).

2 was directed to pay the arrears within four months from the date of the judgment.

Critical Analysis:

In the case of *Shahjahan v. State of U.P.*, the fatwa issued by the Dar-ul Qazi was relied upon by the Family Court. The facts were not revisited by the Family Court and similarly the High Court relied upon such perverse findings to pass an order. This not only reaffirms the supremacy of religious institutions but also is a grave reminder of the danger the victim may face due to such arbitrary decisions given on the basis of the fatwas.

The discourse surrounding the fatwas issued by courts of Dar-ul Qazi in India reveals a complex legal tension in the Indian judicial landscape. Over the years, many controversial and patriarchal fatwas have stirred up the question of the legal standing and validity of the issued fatwas. In order to understand the controversies around them, it is imperative to analyse their origin. Fatwas originate from early Islamic history, where, when approached with doubts, the learned jurists (the muftis) issued non-binding legal opinions termed as fatwas. Only a trained mufti could issue a fatwa which was voluntary and the implementation was dependent on the choice of the Mustafi i.e. person seeking such guidance from the mufti. The Mufti was supposed to write at the end of the Fatwa, "*wa allah alam* i.e God only knows the best and with his knowledge, he can try to determine it."[6]

In India, one of the major, authentic institutions issuing fatwas is Darul Uloom Deoband which is the second highest Islamic seminary in India after Al-Azhar in Cairo.[7] Darul Uloom emerged owing to the first freedom struggle in India in 1857 and it supported Mahatma Gandhi and Indian National Conference against the British. The issuance of fatwas by such institutions like Darul Uloom Deoband, plays a major role in the life of an ordinary Muslim since such institutions act as an alternative dispute resolution mechanism, giving access to faster and cheaper justice.

However, the issuance of some controversial and arbitrary fatwas has raised serious legal concerns. At a time, when there is a huge psychological pressure to adhere to the arbitrary and

[6] *The Critical Analysis of Fatwas Issued on Muslim Women in India*, HEINRICH-BÖLL-STIFTUNG (Feb. 15, 2011), https://in.boell.org/en/2011/02/15/critical-analysis-fatwas-issued-muslim-women-india.
[7] *Orthodox Fatwas Issued by Darul Uloom Deoband Seminary of India*, MIDDLE E. MEDIA RES. INST. (June 9, 2011), https://www.memri.org/reports/orthodox-fatwas-issued-darul-uloom-deoband-seminary-india-%E2%80%93-blog-posts-memris-south-asia.

discriminatory fatwas, a writ petition was filed before the Hon'ble Supreme Court regarding the issuance and validity of fatwas. The petitioner Vishwa Lochan Madan[8] subsequent to a fatwa issued by the Dar-ul-Uloom where a complaint was filed by a journalist regarding a Muslim woman, Imrana who was allegedly raped by her father-in-law. The fatwa dissolved the marriage and imposed a decree of perpetual injunction on the husband and the wife. Attention was drawn to other fatwas like that of Asoobi where the rapist father-in-law could not be blamed unless a witness existed. The court had to decide the legality of such obnoxious fatwas and whether Dar-ul-Qazas could legally operate in society.

The Court disposed of the writ petition with the observation that the fatwa issued by Dar-ul-Qaza failed to have legal force. The fundamentals of the legal system make it essential for a person benefitting from the legal adjudication to have the right to enforce it, to comply with it and failure would result in legal consequences. The decisions of the Dar-ul-Qaza do not satisfy such fundamentals and hence the opinion or fatwas sanctioned could not have a sanctioned legal authority. The Court declared that such establishments were not a part of the corpus juris of the State, however, it did not abolish the existence of Dar-ul-Qaza or declare the practice of issuing Fatwas illegal.

Through multiple precedents, it has been clearly established that the Indian Constitution recognizes the establishment of other institutions as a mere dispute resolution mechanism. However, the Constitution clearly does not legally authorize external bodies to discharge sovereign functions of an established judicial body of the State. In the case of Shahjahan, the Court recognized the social and psychological pressures regarding the obedience to such irrational fatwas which violates the right to equality before the law under Article 14 and right to live with dignity under Article 21 of the Indian Constitution. The Shahjahan judgment reaffirms the application of Section 125 CrPC to be more legally and constitutionally grounded rather than guided by extra-judicial religious or moral adjudications.

[8] Vishwa Lochan Madan v Union of India, (2014) 7 SCC 707 (India).