REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CHAND DHAWAN V. JAWAHARLAL DHAWAN (1993)

BENCH: Mr. Justice M.M. Punchhi & Mr. Justice S.C. Agrawal **DECIDED:** April 28, 1993

RATIO DECIDENDI & PRECEDENTIAL CRUX:
Permanent alimony under Section 25 HMA can be granted only when a decree granting substantive matrimonial relief (divorce/restitution) is passed.

1. Factual Matrix & Background:

A husband filed a petition for divorce under Section 13 HMA, which was dismissed by the court. During the proceedings, the wife filed an application under Section 25 HMA for permanent alimony. The High Court held that permanent alimony could not be granted after dismissal of the main petition.

2. Substantive Legal Questions Framed:

Whether an order for permanent alimony and maintenance under Section 25 of the Hindu Marriage Act can be made when the main matrimonial petition is dismissed without granting any decree.

3. Analysis & Ratio Decidendi:

The Supreme Court held that the expression 'at the time of passing any decree or at any time subsequent thereto' in Section 25 HMA signifies a decree granting substantive relief (divorce, judicial separation, nullity, or restitution). Where the main petition is dismissed, no decree disrupting or determining the marital status is passed, and therefore Section 25 cannot be invoked. The wife's remedy in such case is under Section 125 CrPC or Section 18 HAMA.

4. Principles Enunciated:

- 1. Section 25 HMA requires the passing of a substantive decree altering marital status.
- 2. Dismissal of a matrimonial petition does not constitute a decree under Section 25.
- 3. Spouses whose petitions are dismissed must seek maintenance under general statutes.

5. Practical Litigation Implications:

- If a matrimonial petition is dismissed, do not file under Section 25 HMA; file an independent application under Section 125 CrPC or Section 18 Hindu Adoptions & Maintenance Act.

.....J.
[SUPREME COURT BENCH]

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