

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Ramesh Chander Kaushal v. Veena Kaushal

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

A celebrated 3-Judge Bench judgment authored by Justice V.R. Krishna Iyer that constitutionalized Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the BNSS, 2023), declaring it a vital instrument of social justice flowing directly from Articles 15(3) and 39 of the Constitution. The Supreme Court settled two crucial questions of law: first, that the statutory monetary ceiling under Section 125 applied distributively to each dependent individual (per head) and not collectively to the entire family as an aggregate cap; and second, that an interim or final maintenance order passed by a civil court in matrimonial proceedings does not automatically extinguish or paralyze the criminal court's summary jurisdiction to provide immediate bread to destitute wives and neglected children.

- * Constitutionalized Social Justice Measure: Section 125 CrPC is anchored in Articles 15(3) and 39 of the Constitution, engineered to prevent vagrancy, destitution, and starvation of women and children.
- * Per-Head Application of Maintenance Ceiling: The statutory ceiling under Section 125 applies distributively to each claimant individually, rejecting the husband's contention of an aggregate family ceiling.
- * Autonomy of Summary Criminal Relief: Matrimonial decrees or interim orders passed by civil courts do not automatically oust or nullify the summary maintenance jurisdiction of the Magistrate.
- * Purposive, Humane Statutory Construction: Provisions dealing with social welfare must receive a compassionate, beneficent interpretation with constitutional empathy for weaker sections.
- * Reconciliation through Adjustment: While civil and criminal maintenance awards can co-exist, amounts actually paid under one order can be adjusted against the other to prevent unfair double recovery.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The petitioner (husband) was a commissioned officer in the Indian Air Force. He was married to the respondent (wife), and two children were born from the wedlock.

Severe matrimonial discord led to separation. The wife instituted proceedings under Section 125 of the Code of Criminal Procedure, 1973 before the Judicial Magistrate, First Class, seeking maintenance for herself and the two minor children.

The Magistrate awarded monthly maintenance totaling Rs. 1000: Rs. 400 for the wife, and Rs. 300 each for the two minor children.

Meanwhile, the husband instituted civil proceedings for divorce under the Hindu Marriage Act, 1955. In those civil proceedings, interim maintenance was fixed under Section 24, or a divorce decree was granted fixing permanent alimony at a different rate.

The husband challenged the Magistrate's order before the High Court and subsequently appealed to the Supreme Court, raising two technical legal objections:

First, he contended that under the unamended Section 125(1) CrPC, the maximum maintenance that could be awarded was Rs. 500 'in the whole', meaning that the total aggregate award for all claimants combined could not exceed Rs. 500 per month.

Second, he contended that since the civil court had seized of the matrimonial dispute and adjudicated maintenance, the Magistrate's summary criminal jurisdiction was ousted and superseded.

The Supreme Court granted special leave to resolve the interpretation of Section 125 CrPC and its relationship with civil court decrees.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

1. Section 125 CrPC as a Measure of Constitutional Social Justice:Section 125 CrPC is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39. We have no doubt that sections of statutes dealing with social welfare must receive a compassionate, purposive construction. The brooding presence of the constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social relevance.
2. Distributive Construction of the Words 'In the Whole':The words 'in the whole' in Section 125(1) CrPC do not mean that if a man has an abandoned wife and five starving children, the Magistrate cannot award more than Rs. 500 for all six of them put together. 'In the whole' means that the total sum awarded to that particular individual claimant (taking into account food, clothing, shelter, and medical care) cannot exceed Rs. 500. The ceiling applies per head to each claimant, not as an aggregate blanket for the entire family unit.
3. Independence of Magistrate's Summary Jurisdiction:A civil court's order or decree does not automatically cancel or extinguish a Magistrate's order under Section 125 CrPC. Section 127(2) CrPC provides a mechanism for modification or cancellation only where the civil court has actually settled the question of maintenance and the consequence requires variation. Until modified under Section 127, the Magistrate's summary order remains fully enforceable.
4. Swift Sustenance Cannot Be Defeated by Civil Delays:The summary jurisdiction under Section 125 is designed to provide immediate bread to the starving wife and children. A husband cannot defeat immediate sustenance by taking refuge in protracted, slow-moving civil litigation. The criminal court's protective arm remains operative until actual maintenance is received.
5. Adjustment and Equitable Credit:Where maintenance is awarded by both criminal and civil courts, the proper course is not to annul the criminal order, but to give credit and adjust payments actually made in one forum against the liability in the other forum.

4. OBITER DICTA & JUDICIAL OBSERVATIONS

Law as an Instrument of Social Healing:Justice Krishna Iyer observed that law is not an intellectual plaything for lawyers and judges, but an instrument of social justice designed to wipe every tear from every eye and rescue destitute dependents from destitution and prostitution.

Call for Abolition of Rigid Monetary Ceilings:The Court criticized the unrealistic statutory monetary ceiling of Rs. 500, observing that rapid inflation and escalating cost of living rendered fixed statutory caps oppressive. The Court urged Parliament to periodically revise or eliminate statutory ceilings in maintenance laws (which Parliament did via the 2001 amendment).

Denunciation of Technical Evasions by Husbands:The Court sternly condemned tactics adopted by financially well-off husbands who exploit legal technicalities and multiple appellate forums to starve their wives into submission or abandonment of claims.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
Does the statutory monetary ceiling under Section 125 CrPC apply per claimant or as an aggregate cap for the whole family?	It applies distributively to each dependent individual claimant per head; the Magistrate can award up to the statutory limit to the wife and each dependent child separately.
Does an order or decree passed by a civil court automatically extinguish a Magistrate's order under Section 125 CrPC?	No; Section 125 is an independent, summary remedy. A civil decree only empowers the husband to seek modification or cancellation under Section 127(2) upon showing actual compliance or satisfaction.
What constitutional provisions mandate a liberal and humane construction of maintenance provisions?	Articles 15(3) (special provisions for women and children) and Article 39 (ensuring adequate means of livelihood and protection against destitution) of the Constitution of India.
How should overlapping maintenance orders passed by civil and criminal courts be reconciled in practice?	Through set-off and adjustment; payments actually made under the civil decree are credited against the criminal award, but the Magistrate's summary jurisdiction is not paralyzed.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
Code of Criminal Procedure, 1973 Sec 125	Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) Sec 144	Section 144 BNSS carries forward the humane ethos of Section 125 CrPC, has no monetary ceiling, and mandates disposal of interim maintenance applications within 60 days of notice.
Code of Criminal Procedure, 1973 Sec 127(2)	Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) Sec 146(2)	Retains the statutory mechanism empowering the Magistrate to alter, modify, or cancel a maintenance order in consequence of a decision by a competent civil court.
Constitution of India Articles 15(3), 39	Constitution of India Articles 15(3), 39	Substantive constitutional bedrock affirmed in Ramesh Chander Kaushal requiring courts to interpret family welfare legislation with compassionate empathy.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * Savitri v. Govind Singh Rawat (1985) 4 SCC 337:Built on Ramesh Chander Kaushal to imply the inherent power of Magistrates to grant interim maintenance under Section 125 CrPC.
- * Shamima Farooqui v. Shahid Khan (2015) 5 SCC 705:Reaffirmed Ramesh Chander Kaushal; held that maintenance under Section 125 cannot be reduced to a pittance and must enable the wife to live with dignity.
- * Rajnesh v. Neha (2021) 2 SCC 324:Landmark maintenance ruling citing Ramesh Chander Kaushal for social justice jurisprudence and establishing uniform guidelines for disclosure of assets and overlapping liabilities across multiple forums.
- * Aditi alias Mithi v. Jitesh Sharma (2023 SCC OnLine SC 1451):Supreme Court reiterated Ramesh Chander Kaushal's mandate that child maintenance is an absolute constitutional obligation that cannot be defeated by parental litigation.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * Plead Neglect and Destitution:Explicitly plead the husband's refusal, neglect, and failure to maintain despite possessing sufficient means, invoking the social justice doctrine of Ramesh Chander Kaushal.
- * File Asset Disclosure Immediately:Submit comprehensive Affidavit of Assets and Liabilities at the inception to trigger mandatory interim maintenance within 60 days under Section 144(1) BNSS proviso.
- * Claim Separate Maintenance for Each Child:Claim independent, distinct sums for the wife and each dependent child, emphasizing that child maintenance is an inalienable right of the child.
- * Resist Civil Court Stay Applications:Firmly oppose any attempt by the husband to stay or dismiss Section 144 BNSS proceedings on the pretext of pending divorce or civil litigation.
- * Invoke Coercive Execution:Enforce non-compliance swiftly under Section 144(3) BNSS through salary attachment, warrants of distress, and civil imprisonment for monthly defaults.
- * Maintain Accurate Payment Records:Keep certified banking records of all maintenance payments made across all forums (HMA Sec 24, DV Act Sec 20, Family Court, Section 125/144).
- * Plead Specific Set-Off and Credit:Formally plead set-off under Rajnesh v. Neha for sums deposited pursuant to civil court orders to prevent double recovery.
- * Apply under Section 146(2) BNSS upon Civil Decree:Move an application for variation or cancellation before the Magistrate once a civil court determines permanent alimony or finds the wife disentitled.

- * **Submit Transparent Income Documentation:**File audited financial accounts, income tax returns, and current liabilities to establish true net disposable income.
- * **Demonstrate Direct Support for Children:**Place on record direct educational fee payments, health insurance premiums, and institutional expenses paid on behalf of children.