REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SAVITABEN SOMABHAI BHATIYA V. STATE OF GUJARAT (2005)

BENCH: Mr. Justice Arijit Pasayat & Mr. Justice S.H. Kapadia **DECIDED:** March 10, 2005

RATIO DECIDENDI & PRECEDENTIAL CRUX:
The term 'wife' in Section 125 CrPC means only a legally wedded wife; a woman marrying a man with a subsisting prior marriage is not entitled to maintenance.

1. Factual Matrix & Background:

The appellant married the respondent husband according to Hindu rites, unaware that his first marriage was still subsisting. When deserted, she claimed maintenance under Section 125 CrPC. The High Court rejected her claim holding she was not a legally wedded wife.

2. Substantive Legal Questions Framed:

Whether a woman who enters into a marriage ceremony with a man having a living spouse is a 'wife' entitled to maintenance under Section 125 of the CrPC.

3. Analysis & Ratio Decidendi:

The Supreme Court held that the scope of Section 125 CrPC cannot be enlarged by judicial interpretation. The expression 'wife' in Section 125 means only a legally wedded wife whose marriage satisfies statutory requirements. A second marriage during the subsistence of the first is null and void under Section 11 read with Section 5(i) of the Hindu Marriage Act. However, illegitimate children of such union are entitled to maintenance.

4. Principles Enunciated:

- 1. 'Wife' under Section 125 CrPC is restricted strictly to legally wedded spouses.
- 2. A second wife of a void marriage cannot claim maintenance under Section 125 CrPC.
- 3. Children born of a void marriage are legitimate under Section 16 HMA and entitled to maintenance.

5. Practical Litigation Implications:

- Second wives facing denial under Section 125 CrPC should pursue maintenance under Section 20 of the Protection of Women from Domestic Violence Act (PWDVA) or Section 25 HMA.

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

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