

Mukisha Bano And 2 Others vs State Of U.P. Thru. Addl. Chief Secy. ... on 3 March, 2025

Author: Saurabh Lavania

Bench: Saurabh Lavania

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12698

Court No. - 12

Case :- APPLICATION U/S 483 No. - 182 of 2025

Applicant :- Mukisha Bano And 2 Others

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And Another

Counsel for Applicant :- Prem Prakash Singh

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania,J.

Heard learned counsel for the applicants, learned Government Advocate for the State of U.P. and perused the record.

The instant application has been preferred for the following main relief :-

"For the facts, reasons and circumstances stated in the accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to direct the concerned court to decide/conclude the proceedings of decide Maintenance Case No.-74/2023, Mukisha Bano and others Vs Nooh Alam, filed by the petitioner under

section 128 of Cr.P.C., before Learned Principal Judge, Family Court, Ambedkarnagar, within stipulated time in the interest of justice."

In view of the nature of the proceedings/case in issue, it would be apt to indicate the observations made by the Hon'ble Apex Court in the case of Anju Garg and another vs. Deepak Kumar Garg reported in 2022 SCC OnLine SC 1314, which are extracted hereunder:-

"9. At the outset, it may be noted that Section 125 of Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children, as observed by this Court in *Bhuwan Mohan Singh v. Meena* (2015) 6 SCC 353. This Court in the said case, after referring to the earlier decisions, has reiterated the principle of law as to how the proceedings under Section 125 Cr.P.C have to be dealt with by the Court. It held as under:

"In *Dukhtar Jahan v. Mohd. Farooq* [(1987) 1 SCC 624:1987 SCC (Cri) 237] the Court opined that : (SCC p. 631, para 16)

16. ".....Proceedings under Section 125 [of the Code], it must be remembered, are of a summary nature and are intended to enable destitute wives and children, the latter whether they are legitimate or illegitimate, to get maintenance in a speedy manner."

8. A three-Judge Bench in *Vimala (K.) v. Veeraswamy (K.)* [(1991) 2 SCC 375 : 1991 SCC (Cri) 442], while discussing about the basic purpose under Section 125 of the Code, opined that : (SCC p. 378, para 3)

3. "Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife."

9. A two-Judge Bench in *Kirtikant D. Vadodaria v. State of Gujarat* [(1996) 4 SCC 479 : 1996 SCC (Cri) 762], while advertng to the dominant purpose behind Section 125 of the Code, ruled that : (SCC p. 489, para 15)

15. "...While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation."

10. In *Chaturbhuj v. Sita Bai* [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356], reiterating the legal position the Court held : (SCC p. 320, para 6)

6. "....Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in *Capt. Ramesh Chander Kaushal v. Veena Kaushal* [(1978) 4 SCC 70 : 1978 SCC (Cri) 508] falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in *Savitaben Somabhai Bhatiya v. State of Gujarat* [(2005) 3 SCC 636 : 2005 SCC (Cri) 787]."

11. Recently in *Nagendrappa Natikar v. Neelamma* [(2014) 14 SCC 452 : (2015) 1 SCC (Cri) 407 : (2015) 1 SCC (Civ) 346], it has been stated that it is a piece of social legislation which provides for a summary and speedy relief by way of maintenance to a wife who is unable to maintain herself and her children".

10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In *Chaturbhuj v. Sita Bai* (2008) 2 SCC 316, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India."

Considering the facts and circumstances of the case indicated in the application, the present application is disposed of with a direction that the court concerned shall make all endeavour so as to decide the case/application in issue most expeditiously.

With the aforesaid, the instant application is disposed of.

Order Date :- 3.3.2025 ML/-