Andhra High Court
Syed Jamaluddin vs Valian Be And Anr. on 11 April, 1975
Equivalent citations: 1975 CriLJ 1884
Author: Kondaiah
Bench: Kondaiah, S Shankar
JUDGMENT Kondaiah, J.

1. This Criminal Revision case gives rise to a short Question of law. viz., whether the statement or averment made by a Muslim husband in a counter before a Magistrate in an application by the wife for maintenance under Section 488 of the Criminal Procedure Code, to the effect that he had already divorced his wife, would amount to a valid divorce at least with effect from the date when the statement or averment was made.

2. In order to appreciate the scope of the question, it is necessary to briefly state the material facts which gave rise to the question : The 1st respondent herein had married the petitioner about 20 years back. They have a son and a daughter. The petitioner herein ill-treated and tortured the 1st. respondent-wife after marrying a third wife. Therefore, she accompanied by her children left her hushand's house on 18-9-1971 and resided with one Ghulam Hussain who is no other than her son through her first husband. Registered notice claiming maintenance for her and her two childern was issued by the wife to the husband through a lawyer on 6-12-1971. Thereafter, the 1st respondent and her son and daughter filed M. C. No. 2/1972 in the Court of the VII City Magistrate, Hyderabad, claiming maintenance under Section 488. Criminal P. C. In the counter filed by the husband, it is averred that his wife had left his house in September, 1971 without obtaining his permission and subsequently her children joined her, that she was residing with one Maqbul, a police constable, and on 6-12-1971 the had issued a notice to his wife asking her to come and join him and as she did not respond to his request favourably he went on December 12. 1971 to the house where she was residing, with two elders and in their presence divorced his wife and paid a sum of Rs. 75/- to her towards her maintenance for Iddat period, and that she is no longer his wife and, therefore, she is not entitled for maintenance. The claim for the maintenance of his son and daughter also was contested on the ground that his son was employed in a workshop at Feelkhana on a monthly salary of Rs. 30/- and that his (petitioner's) salary is hardly sufficient to maintain his third wife and her two children.

3. On a consideration of the material on record, the Magistrate found that the husband failed to prove that he divorced his wife on 12-12-1971 in the presence of two elders and Paid a sum of Rs. 75/- to her towards her maintenance for Iddat period and rejecting his other objections, awarded maintenance at the rate of. Rs. 40/-, 15/- and 20/- per mensem to the wife, son and daughter respectively. The order of the. Magistrate awarding maintenance to the son and daughter was allowed to become final by the husband. But, however, he preferred Criminal Revision Petition No. 103/72 before the Chief City Magistrate-cum-Additional Sessions Judge and District Magistrate (Judl.). Hyderabad, questioning the correctness, legality and propriety of the order of the Magistrate in granting maintenance to the wife. Relying upon the decision of the erstwhile Hyderabad High Court in Wahab Ali v. Qamro Bi AIR 1951 Hyd 117 : 52 Cri LJ 1299 it was held that the order of the Magistrate in granting maintenance to the wife alone beyond 3 months 10 days from the date of the

filing of the counter by the husband is illegal and, therefore, a reference to the High Court with a recommendation to quash the order of the Magistrate to that extent was made. Hence, this criminal revision case which first came up before our learned brother, Punnayya, J. before whom two conflicting decisions have been cited. In Imam Saheb v. Hajju Bee (1970) 1 Andh WR 138. Mohammad Mirza, J. referred to three different modes of talak viz. (1) Talak Ahsan, (2) Talak Hasan and (3) Talak-ul-biddat and held as follows:

...a person who alleges that he has given divorce must establish what form of talak was pronounced and when it became irrevocable. Unless a person complies with the conditions mentioned above, a divorce does not become effective. A mere mention in a written statement, in my view, cannot be sufficient to have the effect of a divorce unless it is pronounced in the presence of witnesses or the wife herself. The view of the learned Sessions Judge proceeds on the basis of the decision of the erstwhile Hyderabad High Court, (Wahab Ali v. Qamro Bi AIR 1951 Hyd 117 : 52 Cri LJ 1299, which, in my view, is not correct.

The other case is K. A. Mohidduin v. Waheeda Bi (1970) 1 Andh WR 234 wherein A. D. V. Reddy, J., relying upon the decision in Wahab Ali v. Qamro Bi AIR 1951 Hyd 117 : 52 Cri LJ 1299 has expressed the view that the divorce takes effect from the date of the filing of the counter by the husband in which he had alleged that he had already divorced her and he had to maintain her only for the period of Iddat. Though the decision in K. A. Mohidduin v. Waheeda Bi (1970) 1 Andh WR 234 was on 2nd April. 1968, evidently it was not brought to the notice of the learned Judge who decided Imam Saheb v. Hajju Bee (1970) 1 Andh WR 138 on 25-4-1969. The learned single Judge has referred the case to a Division Bench for resolving the conflict between the aforesaid two decisions. That is how this case has come up before us.

4. The learned Public Prosecutor contended that the filing of a written statement in a suit or a counter to an application, by the Muslim husband to the effect that he had divorced his wife long prior thereto itself amounts to a declaration of divorce from the date of the statement even if he failed to Drove the factum of divorce and the wife will be entitled to maintenance only during the period of Iddat and, therefore, the view expressed in Imam Saheb v. Hajju Bee (1970) 1 Andh WR 138 is not correct and the decision in K. A. Mohiuddin v. Waheeda Bi (1970) 1 Andh WR 234 must be approved as representing the correct position of law.

5. This claim of the learned Public Prosecutor is opposed by the learned Counsel appearing for the wife contending inter alia that the decision in Imam Saheb v. Hjjiu Bee (1970) 1 Andh WR 138 is correct, that though the divorce was effected prior to 1-4-1974. the provisions of Section 125 (1) (a) read with Clause (b) of the Explanation thereunder, Criminal Procedure Code, 1973 apply to the case on hand, that the burden of proof of talak or divorce is on the party who pleads the same and that there is no material as regards the particular sect to which the parties herein belong and therefore it cannot be presumed that they are sunnies to whom the written talak applies.

6. Before adverting to the several decided cases cited across the bar, we may usefully refer to the principles of Mohomeddan Law governing divorce by a Muslim husband. According to the learned author Mulla in his book entitled 'Principles of Mohommedan law" edited by Hidayatullah, the

former Chief Justice of India, the contract of marriage under the Mohommedan law may be dissolved (i) by the husband at his will, (ii) by mutual consent of the husband and wife and (iii) by a judicial decree in a suit by the husband or wife. The Muslim wife is not competent to divorce herself from her husband against his will and without his consent except under a contract whether made before or after marriage. However, she can obtain in certain cases divorce by a judicial decree. A Muslim of sound mind who has attained puberty is competent to divorce his wife whenever he desires without even assigning any reason therefor. Such a divorce which proceeds from a Muslim husband is called talak and when it is effected by mutual consent, it is known as 'Khula or mubaraat' depending upon the terms of the contract. Talak, the form of divorce which is unilaterally initiated by or which proceeds from the husband may be effected orally or by written document called talaknama. It may be noticed that no particular form of words is prescribed for effecting a talak-be it oral or written. Where the words are express or well understood as implied divorce, no further proof of the husband's intention to divorce is needed or required. But however, where the words are ambiguous, the intention of the husband to divorce his wife must be proved. Such intention can be proved or established either by oral or documentary evidence. It is also well-established that there is no need to pronounce the talak in the presence of the wife alone or even addressed to her only. Talak may be pronounced naming the wife either before a family counsel or in the presence of two elders of the community. However, the announcement must clearly indicate the intention of the husband to divorce his wife.

7. The three different modes of talak and when they become irrevocable as given by Mulla may be noticed;

311. Different modes of talak : - A talak may be effected in any of the following ways:

(1) Talak ahsan : This consists of a single pronouncement of divorce made during a tuhr (period between menstruations) followed by abstinence from sexual intercourse for the period of iddat (S. 257).

When the marriage has not been consummated, a talak in the ahsan form may be pronounced even if the wife is in her menstruation.

Where the wife has passed the age for periods of menstruation the requirement of a declaration during a tuhr is inapplicable : furthermore, this requirement only applies to an oral divorce and not a divorce in writing.

(2) Talak hasan : This consists of three pronouncements made during successive tuhrs, no intercourse taking place during any of the three tuhrs.

The first pronouncement should be made during a tuhr, the second during the next tuhr. and the third during the succeeding tuhr.

(3) Talak-ul-biddat or talak-i-badai. : - This consists of

(i) three pronouncements made during a single tuhr either in one sentence, e. g. "I divorce thee thrice," or in separate sentences, e. g. "I divorce thee, I divorce thee. I divorce thee"; or

(ii) a single pronouncement made during a tuhr clearly indicating an intention irrevocably to dissolve the marriage e. g. "I divorce thee irrevocably.

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312. When talak becomes irrevocable (1) A talak in the ahsan mode (S. 311 (1)) becomes irrevocable and complete on the expiration of the period of iddat (S. 257).

(2) A talak in the hasan mode (Section 311 (3)) becomes irrevocable and complete on the third pronouncement, irrespective of the iddat.

(3) A talak in the baddai mode (Section 311 (3)) becomes irrevocable immediately it is pronounced, irrespective of the iddat. As the talak becomes irrevocable at once, it is called talak-i-bain, that is, irrevocable talak.

xx xx xx Until a talak becomes irrevocable the husband has the option to revoke it which may be done either expressly or impliedly by resuming sexual intercourse.

(see pp. 297 and 298 of Mulla's Principles of Mahammedan Law edited by M. Hidayatullah Seventeenth edition). In all the three modes of talak there is one common ingredient or feature. The pronouncement of divorce - be it once or thrice depending upon the mode of talak - must invariably be made during a tuhr i. e. the period between menstruations. No pronouncement of divorce by a Muslim husband will be valid when made during menstruation period of the wife. The Muslim wife can always contest the validity of the pronouncement of divorce by her husband on the ground that the pronouncement of divorce was not made during a tuhr but was made during a period of menstruation. The onus is on the wife to prove that she was during a period of menstruation at the time of the pronouncement of divorce by her husband it is within her exclusive knowledge. Talak becomes irrevocable and complete either on the expiration of the period of iddat or immediately after the pronouncement depending upon the mode of talak. The husband may revoke his pronouncement of divorcing his wife before the talak becomes irrevocable. The option to revoke the talak can be exercised by the husband either by clear expression or by implication by resuming sexual intercourse. The consent of the wife for making talak valid or irrevocable is not essential. The husband is competent to divorce his wife in any one of the forms or modes referred to above by clearly expressing his intention to divorce his wife. There is no obligation on the Part of the husband to give reasons for his intention to divorce his wife. He can effect a divorce whenever he desires. Under the Mohammedan Law. the wife does not enjoy equality of right to divorce her husband just as the husband who is competent to divorce his wife without assigning any reason.

8. We shall now advert to the decided cases. In Ma Mi v. Kallander Ammal AIR 1927 PC 15 at 16, Sir John Wallis, who expressed the opinion for the Privy Council, observed thus:

According to that law (Mohomme-dan law) a husband can effect a divorce whenever the desires. He may do so by words without any talaknama or written document, and no particular form of words is prescribed. If the words used are "express" or well understood as implying divorce, such as talak, no proof of intention is required. If the words used are ambiguous the intention of the user must be proved. It is not necessary that the repudiation should be pronounced in the presence of the wife, or even addressed to her.

9. The Privy Council, in Rashid Ahmad v. Mt. Anisa Khatun AIR 1932 PC 25 at a 27 had approved the law of divorce enunciated by Sir R. K. Wilson in his Digest of Anglo-Mohammedan Law (5th Edition) at p, 136 which reads thus:

The divorce called "Talak" may be either irrevocable (bain) or revocable (raja). A talak bain, while it always operates as an immediate and complete dissolution of the marriage bond, differs as to one of its ulterior effects according to the form in which it is pronounced. A talak bain may be effected by words addressed to the wife clearly indicating an intention to dissolve the marriage, either : (a) once, followed by abstinence from sexual intercourse, for the period called the iddat; or (b) three times during successive intervals of purity, i. e., between successive menstruations, no intercourse taking place during any of the three intervals; or (c) three times at shorter intervals, or in immediate succession; or (d) once, by words showing a clear intention that the divorce shall immediately become irrevocable. The first named of the above methods is called ahsan (best), the second hasan (good) the third and fourth are said to be bidaat (sinful), but are, nevertheless, regarded by Sunni lawyers as legally valid.'' "It is now settled law", said the learned Judge, Venkatasubba Rao, J. in Kathiyamma v. Urathel Markkar AIR 1931 Mad 647 at p. 648.

"That the absence of the wife does not make the pronouncement of talak void and inefficacious, for the husband may pronounce a valid talak in her absence. Sarabai v. Rabibai (1906) ILR 30 Bom 537; Fulchand v. Nawab Ali Choudary (1909) ILR 36 Cal 184; Ashabibi v. Kadir Ibrahim Rowther (1910) ILR 33 Mad 22 : Rajashaheb Rasul Saheb, In re. ILR 44 Bom 44 : AIR 1920 Bom 101 (2) and Ma Mi v. Kallander Ammal AIR 1927 PC 15. But on the question whether the talak takes effect only after it comes to the notice of the wife, there seems to be. some uncertainty' However, the learned Judge was not prepared in the absence of fuller investigation to decide whether a talak Pronounced in the absence of the wife does or does not take effect till it comes to her knowledge.

10. Whether the talak is in writing, it may be either in the customary form or in an unusual form and the talaknama which is a record of the fact of an oral talak or a deed by which the divorce is effected, may be executed in the presence of the Kazi or the father of the wife or any elders or witnesses. Where a talaknama is properly superscribed and addressed so as to indicate the name of the writer and the person addressed, it is said to be in the customary form otherwise in unusual form. The intention of the talaknama in the customary form must be presumed whereas in the unusual form, the intention to divorce must be proved. Where the talaknama is in the form of declaration not addressed to the wife or to any other person, it must be considered to be not in the customary form and it is also not effective if there was no intention to divorce. In the case of customary talaknama, it takes effect immediately even though it was not brought to the knowledge of the wife. But in the case of declaration, where the talaknama is not addressed to the wife or to any particular person, the

intention of the husband to divorce his wife must be express in clear and unambiguous words. One such situation is making a specific statement or averment in a written statement or counter by the husband in a suit or application instituted by the wife for maintenance against her husband. The husband can plead that he divorced his wife either on the date of such written statement or counter or that he had already divorced her. The onus is certainly on the husband to prove or establish the factum of his pronouncing the talak or divorcing his wife. Where the husband fails to satisfactorily Prove or establish that he had validly pronounced his intention to divorce his wife earlier as pleaded by him. it falls for determination whether such clear statement or averment in the written statement or counter would amount to his declaration on the date of such written statement or counter of his intention to divorce (his wife. A mohommedan husband is competent to divorce his wife at any time and without assigning any reason and according to his will or pleasure, by pronouncing his intention to divorce his wife expressly or impliedly in any one of the modes of talak. Such power vested in a Muslim husband is, no doubt, arbitrary, oppressive and detrimental to the interests of the Muslim wife but that is the law. Hence, a clear and unambiguous statement or averment made by a Muslim husband in a written statement or counter that he had already on a prior date divorced his wife, must be held to be a declaration of his intention to divorce hi wife at least from the date of the filing of such written statement or counter notwithstanding his failure to satisfactorily establish that he had validly pronounced his intention to divorce his wife earlier as pleaded by him, Where such a clear and unambiguous intention of divorcing his wife has been expressed by a Muslim husband in a pleading or an affidavit in a Court proceeding or by the issuance of a notice, it is not obligatory on his part to establish what form of talak has been pronounced by him. The form of talak pronounced by the Muslim husband is not very material as. in every form or method of talak, the pronouncement of the husband must be clear and unambiguous to the effect that he intended to divorce his wife. Such declaration would be complete and irrevocable and, therefore, it would be effective from that date. Hence, we are unable to persuade ourselves to agree with the view expressed by Mohamed Mirza, J. in Imam Saheb v. Hajju Bee (1970) 1 Andh WR 138 that the Muslim husband who alleges that he had given divorce must establish what form of talak was pronounced and when it became irrevocable and mere mention in a written statement cannot be sufficient to have the effect of a divorce unless it is pronounced in the presence of witness or the wife herself.

11. This view of ours grains support from the decided cases which we shall presently refer to.

12. A Division Bench of the Allahabad High Court, in Asmat Ullah v. Mt. Khatun-Unnisa AIR 1939 All 592 had to consider the effect of the statement of a Mohammedan husband made in his written statement in a criminal proceeding instituted by his wife claiming maintenance, that he had divorced his wife 3 or 4 months prior to that proceeding according to Mohammedan Law. He also deposed that he had divorced his wife by repeating thrice "I divorce you". In those circumstances, it was held that the evidence on record established that the plaintiff was divorced by her husband in the year 1915 and that where an acknowledgment of talak is made by the husband, the divorce will take effect at least from the date upon which the acknowledgment is made.

13. In Wahib Ali v. Qamro Bi AIR 1951 Hyd 117 : 52 Cri LJ 1299. the learned Judge, Suryanaravana Rao J. reiving upon the rulings of Division Benches of the erstwhile Hyderabad High Court in

Mohammed Hussain v. Rasul Bi 14 Deccan LR 37 and Abdul Azeez v. Kabira Bi 32 Deccan LR 192, held that a statement of the Mohammedan husband in the written statement or an endorsement on summons or notice that he had already divorced his wife by giving a talak operates as an expression of divorce by the husband from the date of the filing of the statement or the making of the endorsement, as the case may be.

14. In Chandbi v. Bandesha it was held that the statement made by a Mohommedan husband in a written statement to an application by his wife, for maintenance under Section 488, Criminal P. C., to the effect that he had already divorced his wife about 30 years ago. even if the fact of such divorce is not proved, operates as declaration of divorce as from the date of the written statement and the wife is then entitled to maintenance only for the period of iddat. The learned Judge, Shah J, (as he then was) observed thus:

...although a Mahomedan may fail, to prove the allegation that he had divorced his wife some years ago, nevertheless, the statement made by him to the effect that he had So divorced his wife, even if it be false, would operate as an acknowledgment of the divorce by him or at any rate as a declaration of divorce as from the date on which the statement was made.

15. The learned Judge followed and accepted the ratio of the decision of the Division Bench of the Allahabad High Court in Asmat Ullah v. Mt. Khatun-Unnisa AIR 1939 All 592 and held that "although the husband failed to prove the divorce which, he alleged had taken place 30 years ago, he did divorce the wife as from the date on which he filed the written statement, namely. 6th April, 1959." The learned Judge proceeded to observe:

In my opinion, even where a divorce is given orally to a wife who has passed the age for period of menstruation, the condition that oral declaration of divorce, should be made between two periods of Tuhr would not be applicable, because it would be physically impossible to have such periods between which such a declaration could be made.

16. To the same effect is, the decision of Mulla. J. in Abdul Shakoor v. Smt. Kulsum Bibi 1962-1 Cri LJ 247 (All). In Wahad Baksh Seikh v. Hadisha Bibi it was held that the Muslim wife is entitled to maintenance upto the date of her knowledge of the talaknama, during which time she lived with her husband. Therein, the existence of talak came to the knowledge of the wife only during the proceedings under Section 488. Criminal P. C. initiated by her. Kuppuswamy Ayyar, J. in Abdul Khader v. Azeeza Bee AIR 1944 Mad 227 : 45 Cri LJ 672 held that a Muslim husband can declare a valid talak in the absence of his wife but it must be communicated to the wife before it can be acted upon See Kathiumma V. Urathel Markkar AIR 1931 Mad 647.

17. In Mohammad Ali v. Fareedunnisa . the statement made by a Mohomedan husband in the reply notice issued by him to his wife stating that she had already been divorced was found to operate as declaration of divorce from its date. The learned Judge, Obul Reddi, J. (as he then was), observed:

...The Mohomedan law confers a special right on the husband and favours the husband more than the wife giving liberty to the husband not only to divorce the wife orally in the manner provided for

under the Mahomedan Law, but also issue a notice or file a written statement in defence to a maintenance claim and where such a statement in writing is made that he had divorced his wife in the past long prior to the action brought by the wife, notwithstanding the denial of the wife, the statement of divorce made either by a notice or in a written statement itself amounts to a declaration of divorce as on that date, on which the said statement was made.

18. For all the reasons stated, we have no hesitation to hold that notwithstanding the failure of a Mohammedan husband to prove his allegation that he had divorced his wife some years or months ago, or the statement made by him to the effect that he had divorced his wife earlier being found to be false, nevertheless it would operate as an ac-knowledgment of divorce as from the date on which such clear and unambiguous statement was made in a notice issued by him to his wife or a pleading or an affidavit filed by him in a Court proceeding to which his wife was a party. The husband need not prove the form of talak adopted by him. Such declaration, irrespective of the form of talak would be complete, irrevocable and effective from the date of the filing of the pleading or affidavit or the communication of the notice and he would not be liable to maintain her any longer except for the period of iddat. We, therefore, prefer to accept the view expressed by A.D. V. Reddy, J. in K.A. Mohiuddin v. Waheeda Bi (1970) 1 Andh WR 234 as correct and overrule the contrary view taken by Mohammad Mirza, J. in Imam Saheb v. Hajju Bee (1970) 1 Andh WR 138 which does not appear to be correct.

19. Applying the principles enunciated in the aforesaid decisions to the facts of the present case, we have no hesitation to hold that the statement in the counter made by the petitioner husband before the Magistrate's Court that he had already divorced his wife, the 1st respondent herein, operates as a declaration of divorce as from the date of the filing of such counter, notwithstanding his if allure to prove or establish the truth and correctness of his divorcing his wife earlier. The declaration of his intention to divorce his wife was made in writing. But such declaration was not made in the presence of the wife or the elders of the community and therefore, the husband has to prove his intention to divorce his wife. On the facts of this case, we do not find any difficulty in inferring the clear intention of the husband to divorce his wife. The declaration of the husband divorcing his wife would be effective only when it is communicated to the wife. The wife is a party to the proceeding before the Magistrate, where, in unambiguous language, the husband has indicated his intention to divorce his wife by making a specific averment in the counter filed by him contesting the claim of his wife for maintenance under Section 488, Criminal P. C. In the circumstances, the statement made by the husband must be deemed to have been known to the wife as she is a party to the proceeding in which such declaration has been made by her husband. This fact alone would be sufficient to reject the contention of the wife that the petitioner continued to be her husband even after the filing of the counter entitling her to claim maintenance from him. The 1st respondent herein would cease to be the wife ,of the petitioner from the date of his filing the counter and, therefore, he is not liable to maintain her thereafter except for the period of iddat. The maintenance awarded by the trial Court in respect of the son and daughter of the petitioner and the 1st, respondent would stand and the order awarding maintenance to the 1st respondent would be set aside with a modification that she would be entitled to maintenance till the period of iddat and not thereafter. The principal question is, therefore, answered in the affirmative and the divorce would be effective from the date of the filing of the counter by the petitioner-husband to the application by the wife before the

Magistrate for maintenance under Section 488, Criminal P. C.

20. This brings Us to examine the further submission of the 1st respondent's counsel that his client is entitled to maintenance on the application of the Divisions of Section 125(1)(a) read with Clause (b) of the Explanation thereof of the Code of Criminal Procedure. 1973 which came into force on 1-4-1974. Under Section 125(1)(a), if any person having sufficient means neglects or refuses to maintain his wife unable to maintain herself, a Magistrate is empowered to order such person to make a monthly allowance for the maintenance of his wife at such monthly rate not exceeding Rs. 500/- in the whole, as such Magistrate thinks fit. 'Wife' is defined under Clause (b) of the Explanation to Section 125 (1). The definition of 'wife' applicable to Chapter IX of the Code is wide enough So as to take in a "woman who has been divorced by, or has obtained a divorce from her husband and has not remarried." According to the counsel for the 1st respondent his client, even if she has been divorced by her husband by the declaration made by him in the counter, is still entitled to claim maintenance as she has not remarried. True, the new Code of Criminal Procedure has come into force on 1-4-1974 but the provisions of Section 125(1)(a) have no application to the case on hand in view of the provisions of Section 484(2) of the new Code. The Code of Criminal Procedure, 1898, has been repealed by Sub-section (1) to Section 484. Notwithstanding such repeal any appeal, application, trial, inquiry or investigation pending before the date on which the new Code came into force, shall be disposed of, continued, held or made as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1898 by virtue of the provisions of Sub-section (2) to Section 484 of the new code. Under Section 484(2) the provisions of the old Code would be applicable to the present case which was initiated under the old Code and the present revision case also was filed under the repealed Code. In such circumstances, we have to apply the provisions of the repealed Criminal Procedure Code as if the new Code has has not come into force. In this view, we cannot apply the provisions of Section 125(D)(a) of the new Code and award maintenance to the 1st respondent in the case on hand. Judged from any angle We have to accept the reference made by the Chief City Magistrate. Hyderabad and we accordingly accept the same.