



Equality, Justice and Harmony

We fight for Equality among gender, Justice to all and Family Harmony

Date: 06th Nov 2020

PRESS RELEASE

OPPOSING HONORABLE SC GUIDELINES ON PAYMENT OF MAINTENANCE IN MATRIMONIAL MATTERS

With reference to the Case of Rajesh Vs. Neha & Others, in Writ Special Leave to Appeal (Crl.) No(s) 9503/2018 in a Writ order of the Honourable Supreme Court delivered its guidelines in CRIMINAL APPEAL NO. 730 OF 2020 dated 04/Nov/2020 (Ref: <https://mynation.net/docs/730-2020/>)

We, the members of **MyNation Hope Foundation** with a presence over the internet and social sector all over India helping needy for free, over 12 years and having more than 10,000 Families registered with us would like take this opportunity to bring out some major concerns and long term implications of this guideline both on the legal and social fabric of the country as well as Privacy Rights of the citizens as whole getting wrongly implicated in various litigations on family issues. We would like to draw the attention to below key points as arising out of the Guidelines issued by Hon'ble Supreme Court of India for on payment of maintenance in matrimonial matters.

- 1) These Guidelines are highly regressive in terms of the Fundamental Rights of Financial Privacy and Financial Freedom.
- 2) These guidelines further promote the gender biased approach by mandating upfront disclosure without any due merits to the legitimacy of the litigation.

- 3) These Guidelines require financial disclosure which is fundamentally violative of the Financial Privacy Privileges of the citizen specially impairing the honest tax paying citizens.
- 4) These guidelines do not prescribe any mechanism of safeguarding of Personal financial information whereas the whole world is moving towards protecting the Personal Information rights of Individuals. This is in contravention of all the international Privacy Laws.
- 5) These Guidelines mandate the Deponent to encroach the Privacy of dependents which is unconstitutional and illegal.
- 6) These guidelines potentially are converting a quasi-civil legislation to Criminal legislation without any statutory backing.
- 7) As always court has talked only about the financial rights without even mention of the corresponding duties of the litigating wives who under the gender biased laws continuously engage in Parental Alienation Practices
- 8) These disclosure guidelines are not backed by any constitutional or Statutory backing and will act as means of harassing the male fraternity already suffering from Legal Terrorism due to Gender Biased Laws.
- 9) Most of these guidelines are going to impact the hardworking and genuinely tax paying community largely from male fraternity and result in decaying further of marital institutions as marriage as an institution is already wrecked by misuse of Gender biased Laws. This promulgation is going to add fuel to this gender divide and provide the route for more litigation for easy money at drop of hat.
- 10) These guidelines promote Divorce, as most of guidelines are favorable to women, drafted with one goal, when Women is divorced she should get money along with Children without considering men's others liabilities.
- 11) These guidelines completely ignore the merits and legitimacy of the litigation and are directed towards favoring women blindly. These guidelines have been drafted referring other prior judgments with a

biased approach only considering judgements favoring women. It does not take into consideration any prior judgements rendered by Honorable Supreme Court like, No maintenance to Earning / Educated / Capable women. No Domestic violence No maintenance, No maintenance to Wife who deserted husband without valid grounds.

- 12) Other than above points, We the MyNation Hope Foundation submitted many suggestions (LISTED AT THE END OF THE PRESS RELEASE) and none taken into consideration.

This issue requires urgent intervention of your good self, this being issue of national importance which is spoiling thousands of families tearing apart the social structure of Indian society by greedy women gradually to the extent that today rate of matrimonial disputes increasing by the rate of 25% per year across the country which is finally converting into financial settlement by way of taking huge ransom/alimony running in cores. The NCRB data is reflective of the suicides by married men running into multiple thousands and impacting lakhs of families due to such Gender Biased Promulgations. Most pathetic result of this menace is, ultimate and endless suffering of children coming out of such disputed wed locks, which putting a big question mark on the future of this country.

Therefore, on behalf of all the suffered, suffering and prospective sufferer brothers we MyNation Hope Foundation humbly request Honorable Supreme Court of India to reconsider the above guidelines for the genuine citizens who are going to be burdened by further litigations arising out of these guidelines. These guidelines at the best can be reasonably modified and should be applicable only for the Genuine cases post evidence and arguments rather than unleashing on an overall basis further prompting the greedy wives to manipulate the laws. This has significant economic implication for the genuine hard working and tax paying fraternity which is getting butchered by false cases day in day out.

Thanking you.

Sincerely

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MyNation Hope Foundation(Regd) is a non-funded non-profit NGO, fighting for men's rights, Gender Equality and Family Harmony by creating awareness against the misuse of anti-male laws like Section 498A IPC (the dowry law), the Domestic Violence Act, and other Forced Maintenance laws etc.

SUGGESTIONS SUBMITTED ON 05/Oct/2019

Therefore, on behalf of all the suffered, suffering and prospective sufferer brothers we MyNation Hope Foundation humbly request Honorable Supreme Court of India to validate and accept our suggestion on Maintenance.

Interim Maintenance

1. Prima facie of both parties should be considered on equal basis
2. Short term marriages should not have interim maintenance as it has all ingredients of in adjusting nature and ego clash as main reasons

for separation

3. **DIR** reports should always have mediation similar with FWC and then prepared
4. Delayed filing of case after separation should not entitle any interim maintenance is to be pre-considered before start of case
5. Both parents should be entitled equally on child custody/access
6. Expenses done on child after being awarded maintenance for child should be substantiated with bills of expense just as the payment is expected monthly
7. Self expense should be produced by aggrieved monthly and should be revised intermittently by courts if needed
8. No interim for educated and able aggrieved
9. Interim even if is to be given should be based on min average income of the person district for non metro and non 2 tier cities
10. Wife should not be shelved from her duty too of serving food to her husband if she has earned maintenance from husbands. If wife is living separately and court has awarded her with maintenance then she should also be mandated to serve meals to the husbands on hearing dates as her ongoing duty towards husbands (especially where husbands are from outstations). Food should be consumed by both parties in court's canteen and this should be done by courts as a good faith and wish and with a hope that it will make way for reconciliation and both parties gets opportunity to settle down mutually. All oral interactions during such meets should not be considered unless parties come to an agreement or proposal of closing the court matter either by settling together or mutually agreeable terms given and signed to the court by both. Oral arguments at such meets should not be taken up as it will only bring in new allegations and complications in the matter.

Maintenance Orders

1. No maintenance if (DV) cases are filed only on taunts and foul language as no monetary benefit can erase such scars

2. No maintenance for an educated able wife separated within short span of marriage
3. Condonation of delay in filing the case a must to know how did she maintained herself without her husband's support and what was the need to file a case
4. Limited period of maintenance for a wife who is showing no reconciliation possibility and is showing the willingness to stay separately and is below 55 yrs of age.

This is to ensure that no empowered women sits idle and becomes a parasite for the society

5. Limited period of maintenance for wife who is educated.
Empowered person should not be made a burden and should be motivated to settle early in life by drawing a limit on maintenance period
6. Custody of child should be equally shared unless one party sheds the rights in written
7. If child's maintenance is being provided by non-custodial husband then the expenses that are done for the child needs to be kept recorded to ensure the upbringing of the child and has to be time to time updated to the husband
8. If wife is earning and is the custodian of the child then husband need to pay only for the half the needs of the child. Wife to be made to furnish the proofs of the expenses made after the child time to time
9. When it is proved that not all allegations were right by the aggrieved party then court should not go ahead to solve the question on how the wife will maintain herself
10. In a short period of marriage a person cannot become 'accustomed to that lifestyle', hence the maintenance then should be based on the percapita income of the wife's family and should be reasonable for husbands who too will be facing society's bad eye
11. If in DV wife has claimed any categories of violence [mental, physical, financial, sexual, child] have happened on her and even if

one is proved to be false and the allegations were based on lies then no maintenance is to be awarded as all other even if correct, will surely be bloated and a natural justice in the case will fail. She should also be further punished to set example in the society who tend to abuse the process of laws and create hindrances for courts by consuming their time and resources which further delays justice for genuine cases

12. Any aggrieved who claims to be non earning and it is proved by opposite party about her earnings then no maintenance to be awarded even if aggrieved earnings may not be maintainable

Court Process Changes

1. In 125 for recovery it has been observed that aggrieved will most of the time seek permission to send summons order by themselves. Many times those summon orders are not sent and at the courts it starts getting recorded as the respondent is not making a presence in the court even when summoned, thus easily warrants are passed. To avoid this, courts should seek proofs of the previous summons sent along with full details including the address.
2. No appeal application of 125, DV order should be kept on hold in the pretext that a certain amount has to be paid of the passed order
3. For recovery of DV interim, the application for recovery should be made in the same court. There should be no need to go to another court file a new case.

This will avoid delay in payment to the aggrieved. Avoid any confusion of payments. Avoids consuming time and efforts of other courts. Avoids creating cases and petitions and helps in faster relief for the aggrieved as well

4. Each maintenance order passed should automatically get a bank account in which the maintenance amount is to be deposited. If a minor is to be maintained then another account has to be created. From these accounts the aggrieved will be paid in her and child's account.

For each account eLock of the government is to be provided where the aggrieved will keep on updating the expense bills done towards the maintenance received

This will avoid the need of receipts for both parties. There will be proper demarcation of the payments. Courts can automatically keep a tab of the situation of the payments. Avoid distasteful communications between the parties. Smoother transactions will happen. False cases about failure of payments will not arise. Will create justifiable maintenance amount in case of change of circumstances

Article 15 under Part III “FUNDAMENTAL RIGHTS”, conferred by the Constitution of India, states:

“The State shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them”.

Whereas, the maintenance laws of India are heavily discriminating and biased towards men, purely based on their gender, which is in direct violation of Article 14. Thus, it is not wrong to say that all other maintenance laws, except HMA 24 (in terms of the Law itself), are Unconstitutional.

Unfortunately, most of the Gender Based Laws in India are being made, under the protection of Article 15(3). It is pertinent to mention here that Article 15(3) allows the state only to make provisions and not the laws.

These are few of our suggestions and requests to you submit it to The Hon’ble Supreme Court to issue guidelines in the maintenance cases.

