



Equality, Justice and Harmony

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To,
The Hon'ble Supreme Court of India.
New Delhi.

SUBJECT: Suggestions for Guidelines on Payment of Maintenance in Matrimonial Matters

With reference to the Case of Rajesh Vs. Neha & Others, in Wrt Special Leave to Appeal (Crl.) No(s) 9503/2018 in a Wrt order of the Honourable Supreme Court to Appoint Mr.Gopal Sankaranarayanan, Sr. Advocate and Ms.Anitha Shenoy, Sr.Advocate As Amicus curiae to assist the court for framing guidelines on payment of maintenance in matrimonial matters.

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 suggest few modification in Guidelines to be issued by Hon'ble Supreme Court of India for on payment of maintenance in matrimonial matters.

With this document, we members would like to bring into the attention of this Hon'ble court the real facts, situations members and their families facing great hardship tied with irreparable losses across the country from decades are pleased to put forth the **Real facts and Suggestions** in the interest of natural justice keeping public views at large.



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With due respect, we take this opportunity and beg this Hon'ble court / Committee to look into the following:

REAL FACTS:

- **In A. Shanmugam v. Ariya Kshatriya, (2012) 6 SCC 430**, the Supreme Court held that the entire journey of a judge is to discern the truth from the pleadings, documents and arguments of the parties. Truth is the basis of justice delivery system. The Supreme Court laid down the following principles:
 1. It is the bounden duty of the Court to uphold the truth and do justice.
 2. Every litigant is expected to state truth before the law court whether it is pleadings, affidavits or evidence.
 3. Dishonest and unscrupulous litigants have no place in law courts.
 4. The ultimate object of the judicial proceedings is to discern the truth and do justice. It is imperative that pleadings and all other presentations before the court should be truthful.
 5. Once the court discovers falsehood, concealment, distortion, obstruction or confusion in pleadings and documents, the court should in addition to full restitution impose appropriate costs. The court must ensure that there is no incentive for wrong doer in the temple of justice.
 6. Truth is the foundation of justice and it has to be the common endeavor of all to uphold the truth and no one should be permitted to pollute the stream of justice.
 7. It is the bounden obligation of the Court to neutralize any unjust and/or undeserved benefit or advantage obtained by



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abusing the judicial process.”

- The fact is that, most of the complainants / petitioners misuse the law Viz: IPC 498A, DV Act, DP Act, CrPC 125 and HMA 24, 25 once made to protect the innocents.
- They falsely accuse and criminalize the family and then try to arm twist to make the husband and their families to yield to their unlawful demands.
- In almost every petitions / claims made before the respective Hon'ble Courts the claimer deliberately and dishonestly takes an oath and sign a false affidavit with bunch of false allegations.
- Court is a Temple Of Justice, which is polluted with a bunch of lies and falsehood making exorbitantly false story of husband's earnings stating he earns in lakhs and have various source of income with N numbers of properties etc, wherein husband would not even be earning Rs. 20,000/- these falsehood not only makes fear, annoy but also shows the clear intention to make false claims.
- Even when wife desert willfully, implicate whole family into a false case and makes false claim and allegations, leaves the matrimonial house without any valid reason, and even when the husband begs for reconciliation, still the interim maintenance is passed.
- As per the SC order, maintenance of 1/3rd i.e. 30% of husband's income is granted to wife and same person who is also bound responsible to look after his parents, the fact need to be looked into with the same logic when:



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- Wife - get 30% as maintenance
- Father - is entitled to get 30%
- Mother - is entitled to get 30%

In total, 90% of income is gone as maintenance and left with 10% for himself. Is this is not a matter for consideration?

With above real facts, with large public interest begging this Hon'ble Court / Committee to consider the below suggestions in the interest of justice.

SUGGESTIONS:

- Maintenance should not be a prerequisite to matrimonial disputes. Merits of the cases should be heard first. No maintenance to be granted if either of the parties want to join back together.
- Interim Maintenance should be only an advisory, not a mandated approach. If case found false, interim maintenance shall be recoverable with applicable costs.
- Maintenance should be decided within time limited as framed.
- Maintenance should be decided in a gender neutral manner to the deserving and/or poorer spouse. Maintenance should factor the net savings of the maintainer.



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- All cases should be clubbed in one court. Multiple maintenance should not be granted (example HMA 24/CrPc 125/DV).
- Maintenance should be dealt as a commercial matter as part of Family matter and not criminal dispute. Unless in exceptional cases it has been found that the “Maintainer” has sufficient income and funds after clearing all his/her dues. If the maintainer does not have funds, then the government should support to provide appropriate income to such persons.
- All cases need to be first heard and awarded on merits not on mere assumptions. Complete case hearings including any pending hearings have to be completed for such award. Any interim maintenance order shall be treated more as an advisory, rather than a mandatory payment. If the case is found false, then any interim maintenance awarded shall be recoverable with appropriate interests.
- Maintenance to be decided on merits and gender neutral approach, not based on just the Mans capacity to earn or assets. It should be decided on the Women contribution to the marriage and family, not for the marriage lasted for few months or a year. Man earn working hard if Women has not supported to achieve or reach the status they have, Women is not entitled to claim or has no right to claim any money just because she was married to him.
- Maintenance should be income tax deductible expenditure in hand of any assessee liable to pay tax. All original authenticated expenses of maintenance amount should be provided to the maintainer.



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Maintenance money provided should be seen as a taxable income of the person receiving this amount. Tax is liable to be deducted from the receiver if amount falls in taxable limits.

- All family matters to be dealt through the NALSA in a gender neutral manner, unless parties prove to have sufficient funds in **net** savings otherwise throughout the case hearings.
- No Maintenance to a able bodied or Educated Women, if she sits idle just to claim maintenance, Women ministry or Government should have a mechanism to employ her to be empowered, and not to allow her to beg husband or force husband to beg or borrow and be a burden on him. Government can support her up to for 6 months maximum, by then she has to find a job.
- No Maintenance to Working Women or if she left the job to claim Maintenance.
- No Maintenance to Women who deserted husband without any valid reason.
No Maintenance if husband ready to take back and wife refused to come back.
Maintenance should not be granted to women who left husband's house or who forced husband out of the house, for no grave issues and just filed maintenance cases to harass and extort husband and his family.



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- No Maintenance if children are with Father.
No Maintenance if children are with mother and she is denying access of children to father.
- No maintenance if Women who come to court with falsehood and unclean hands - false claim should attract IPC 209.
- Maintenance can be awarded to either party in a gender neutral approach.
- Maintenance should be awarded in only grave incidents wherein any physical abuse, financial abuse or wife has been abandoned husband house without valid justifiable grounds.
If husband has been abused, met with cruelty and forced leave his own home, and then husband has the right to claim maintenance from wife.
- Only when courts are satisfied that it is great danger to life of wife in husband's house then should grant maintenance, else courts should order women to rejoin her marital life back.
- Courts should first satisfy themselves whether the wife has undertook all her responsibilities towards husband and household and if not then she should not be granted maintenance. Else all women will use this law just to harass the husband and his family and will not take any responsibility post marriage.



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- Spouse who has equal education status and capability to earn should not be awarded maintenance unless merits of the case prove so exceptionally..
- Courts should encourage all such wife's to rejoin their marital life's and took equal responsibilities to lead their marital life's and not just ruin their life to settle their scores against each other's.
- Working spouse should be expected to pay proportionate to their income for child support. Spouse who is being denied child access, need not pay for the child support.
- If any spouse is a victim of false case or cruelty, then they should be provided maintenance.
- No Maintenance if marriage lasted few months, or wife spent more her marriage times in her Mother place or somewhere else denying conjugal rights and marital bliss.
- Maintainer should have complete access to the maintained, so that he/she can supervise on the expenses and verify whether the costs paid for are being spent to the satisfactory levels.



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As per **Article-14 of Constitution of India -**

“The state not deny to any person equality before the law or the equal protection of the laws within The territory of India. protection prohibition of discrimination on grounds of religion, race, Caste, sex, or place of birth;”

But Indian Legal System is discriminate based on gender, just because, there is clause to make special laws for Women which is violation against Article-14 of Constitution of India, No one is opposing making law in favor of Women or needy but it should not be at the expense of others.

We here by request you to review our suggestion and help us to stop this legal harassment of innocents in the name of empower Women with unjustified claims of Maintenance.

THANKING YOU.

Members.

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