

## **Case Analysis: Mohd. Ahmed Khan v. Shah Bano Begum (1985)**

### **Introduction**

In a landmark judgment, the case of **Mohd. Ahmed Khan v. Shah Bano Begum (1985)** marks an important moment in India's legal history. It sparked intense debate about the intersection of personal law and secular law. The case focused on whether a Muslim woman's right to maintenance after divorce is protected under Section 125 of the Criminal Procedure Code (CrPC), a secular provision that applies to all citizens.

The Supreme Court's judgment in favour of Shah Bano Begum upheld her right to maintenance and ignited a national conversation about balancing religious personal law with the uniform application of secular law. This case continues to be a significant reference point in discussions surrounding women's rights, religious freedom, and the role of the judiciary in India.

### **Background of the Case**

The case centers around a long-standing battle waged by a Muslim woman, Shah Bano, against the practice of Triple Talaq, which has caused her both community backlash and personal conflict with her husband.

The appellant married the respondent in 1932, he was a well-known advocate in Indore. Fourteen years into their marriage, the respondent married another woman who was younger than him and subsequently disowned Shah Bano, along with their five children.

Three years after being disowned, Shah Bano filed a petition for maintenance under Section 125 of the Criminal Procedure Code (CrPC), 1973, because the respondent had failed to provide the monthly maintenance of 200 rupees that he had promised. In the same year, he divorced her by pronouncing talaq three times in quick succession, a decision that could not be revoked. He argued that, since she was no longer his legal wife, he was not obligated to provide her with monthly maintenance.

Initially, the magistrate ordered the respondent to pay Shah Bano a monthly amount of 25 rupees. Shah Bano then appealed to the Madhya Pradesh High Court to increase the amount to 179 rupees, which the court subsequently approved, raising it to 179.20 rupees.

In response, the respondent filed a petition in the Supreme Court, challenging the High Court's ruling. He contended that Islamic law does not permit any connection with a spouse after divorce, and therefore, he should not be required to pay her monthly maintenance.

### **Certain Conditions for Maintenance to be Granted**

1. The person providing maintenance must have sufficient means to do so.

2. If the individual required to provide maintenance either refuses to fulfill their obligation, neglects it, or defaults on it, such actions will be considered as neglect or refusal.
3. The person requesting maintenance must be unable to support themselves; only then can they make a claim for it.
4. The amount of maintenance granted will depend on the standard of living of both parties involved.

### **Issues Presented to before the Court**

1. Does the definition of 'wife' under Section 125 of the Code of Criminal Procedure (CrPC), 1973, include a divorced Muslim woman?
2. Is a Muslim husband relieved of his obligation to pay maintenance after fulfilling the due amount of Mehr?
3. Does this section take precedence over the personal laws of Muslims?
4. Can a uniform civil code be applied to all religions?

### **Judgment**

The apex court, after dismissing the plea of the respondent and upholding the decision of the High Court, expressed the following opinion:

- Section 125 of the Criminal Procedure Code (CrPC) applies to all citizens of the country, regardless of their religion, without any discrimination. Therefore, there is no possibility of Muslims being excluded by any exceptions.
- If a conflict between Muslim personal law and Section 125, the latter shall prevail.
- While the husband's obligation to maintain his divorced wife is stipulated only until the iddat period, he is still required to maintain her beyond that period if she is unable to support herself.
- Payment of Mahr (dower) does not absolve the husband of his duty to maintain his divorced wife thereafter. Mahr is not merely an amount paid upon divorce under Muslim personal law; rather, it is customarily paid at the time of marriage or thereafter, as part of the marriage contract recognized by personal law.
- The divorced wife is entitled to maintenance only if she is unable to support herself. If she is capable or willing to maintain herself after the divorce, then the husband is relieved of his duty to provide her with monthly support.
- Section 125 is of a secular nature.
- A divorced wife shall still be regarded as a 'wife' within the meaning of Section 125 unless she remarries.

- There is no conflict between Muslim personal law and Section 125 regarding the husband's duty to maintain his wife. Section 125 comes into effect after the application of Muslim personal law, which requires the husband to provide maintenance during the Iddat period and beyond, as long as the wife remains unable to sustain herself, until she remarries.

## **Conclusion**

Despite facing significant criticism and disagreement from the Muslim community, the Honourable Supreme Court played a remarkable role in upholding the decision in favour of Muslim women's rights. However, the aftermath involved the nullification of this decision with the enactment of the "*Muslim Women (Protection of Rights on Divorce) Act, 1986*" by the Congress government, which was under immense pressure from the Muslim community.

The Act stated that a Muslim husband's duty to maintain his wife would extend only for the duration of the iddat period 90 days after divorce and in the case of a child's birth, for up to two years after the child was born. This change led to a cultural shift among Muslim women, who began demanding a one-time lump sum alimony for a lifetime. Unfortunately, many women remained unaware of their rights and continued to find themselves in a helpless situation.

**Case Name:** Mohd. Ahmed Khan v. Shah Bano Begum (1985)

**Case No.:** AIR 1985 SCR (3) 844

**Bench:** D A Desai, E S Venkataramiah, Rangnath Mishra, O C Reddy, Y V Chandrachud.

**Date of Judgement:** 23 April, 1985

**Parties Name:** Mohd. Ahmed Khan (Petitioner)

Shah Bano Begum & Ors. (Respondents)