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Understanding the Concept of Alimony and Maintenance

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Before we dive into the specifics of Section 125 CRPC, it's important to understand the basic concepts of alimony and maintenance.

In simple terms, alimony and maintenance refer to the financial support provided by one spouse to the other after a divorce or separation. The purpose of this support is to ensure that the financially dependent spouse is able to maintain a standard of living similar to what they had during the marriage.

Alimony and maintenance can take many forms, including monthly payments, lump-sum payments, or the transfer of assets. The amount and duration of support can vary widely depending on the specific circumstances of the case.

Key Provisions of Section 125 CRPC

Section 125 of the Code of Criminal Procedure (CRPC) is one of the key legal provisions governing alimony and maintenance in India. Under Section 125 CRPC, a person who has the means to support their spouse but fails to do so can be ordered by the court to provide maintenance.

One of the key features of Section 125 CRPC is that it applies not only to divorcing couples but to any couple who have been in a relationship akin to marriage. This means that even if you were in a live-in relationship and have since separated, you may still be eligible for maintenance under Section 125 CRPC.

Another important aspect of Section 125 CRPC is that it empowers the court to order interim maintenance, which is financial support provided during the pendency of the case. This can be especially helpful for the financially dependent spouse who may need immediate assistance while the case is ongoing.

Eligibility Criteria for Getting Maintenance Under Section 125 CRPC

To be eligible for maintenance under Section 125 CRPC, the spouse seeking support must meet certain criteria. These include:

- Being unable to maintain themselves
- Having no means of support from relatives or other sources
- Being neglected by the person legally bound to support them

It's important to note that even if the spouse seeking support is earning some income, they may still be eligible for maintenance if their income is not sufficient to maintain their standard of living.

Factors Considered by the Court When Determining the Amount of Maintenance

Once the court has determined that a spouse is eligible for maintenance, the next step is to decide the amount and duration of support. This decision is based on a number of factors, including:

- The income and assets of both parties
- The standard of living during the marriage
- The earning capacity of the spouse seeking support
- The age and health of both parties
- The duration of the marriage
- The responsibilities of each party towards their children

It's worth noting that there is no fixed formula or guideline for determining the amount of maintenance. Each case is unique, and the court will consider all relevant factors in making its decision.

Process of Filing a Maintenance Application Under Section 125 CRPC

If you believe you are entitled to maintenance under Section 125 CRPC, the first step is to file an application with the appropriate court. This application should include details of your income, assets, and expenses, as well as any other relevant information.

Once the application has been filed, the court will issue a notice to the person from whom you are seeking maintenance. This person will then have the opportunity to file a response and contest the application if they wish to do so.

After hearing both sides, the court will make a decision on the amount and duration of maintenance. If the person ordered to pay maintenance fails to do so, the court can take enforcement action, such as seizing their assets or garnishing their wages.

Rights and Responsibilities of the Parties Involved in a Maintenance Case

Both the person seeking maintenance and the person ordered to pay maintenance have certain rights and responsibilities under Section 125 CRPC.

The person seeking maintenance has the right to receive fair and timely support, as well as the right to challenge any decisions made by the court that they believe are unfair or incorrect. They also have a responsibility to provide accurate information to the court about their financial situation and to use the support provided for their intended purpose.

The person ordered to pay maintenance has the right to contest the application and to have their side of the story heard by the court. They also have a responsibility to provide accurate information about their own financial situation and to comply with any orders issued by the court.

Common Challenges Faced in Navigating Section 125 CRPC

Navigating Section 125 CrPC can be a complex and challenging process, with a number of potential pitfalls along the way. Some of the common challenges faced by parties in a maintenance case include:

- Lack of clarity around the legal process
- Difficulty in providing accurate financial information
- Disagreements over the amount and duration of support
- Delays in the court system
- Non-compliance by the person ordered to pay maintenance

To overcome these challenges, it's important to seek the advice of an experienced family law attorney who can guide you through the process and advocate for your rights.

Recent Judgments and Legal Developments Related to Alimony and Maintenance

Finally, it's worth noting that there have been a number of recent legal developments related to alimony and maintenance in India. One of the most significant of these is the Supreme Court's decision in the case of *Rajnish v. Neha*, which clarified the criteria for determining the amount of maintenance in cases where the spouse seeking support is also earning an income.

Other recent judgments have addressed issues such as the obligation of the person ordered to pay maintenance to provide medical insurance for their former spouse, and the rights of Muslim women to claim maintenance under the Muslim Women (Protection of Rights on Divorce) Act. By staying up-to-date on these legal developments and seeking the advice of a knowledgeable attorney, you can ensure that your rights are protected and that you receive a fair and equitable resolution to your alimony and maintenance concerns.

R. Srinivas Kumar v. R. Shametha (2019)

This case underscored that a wife's refusal to cohabit with her husband does not absolve him of the responsibility to provide maintenance if she is otherwise entitled to it under Section 125 CrPC. The Court emphasized the overarching objective of preventing destitution.

Chaturbhuj v. Sita Bai (2008)

In this notable case, the Supreme Court held that even if a husband is unable to maintain his wife due to his own poverty, he is still obligated to provide maintenance to her. The Court emphasized that a woman's right to maintenance is not contingent on the financial capacity of her husband.

Yusuf Abdul Aziz v. State of Bombay (1954)

This landmark judgment clarified that the liability of a person to provide maintenance under Section 125 CrPC is not confined to any particular religion or personal law. It is a secular provision applicable to all individuals, irrespective of their religious beliefs.

Rajnesh v. Neha (2020)

In *Rajnesh v Neha* (2020), a Supreme Court division Bench comprising of Justices Indu Malhotra and Subhash Reddy put down extensive norms to control the payment of maintenance in matrimonial cases on November 4th, 2020.

Facts of the case

In this case, the appellant, Rajnesh, was ordered by the Family Court to pay maintenance to the respondent, Neha, and their minor child. He unsuccessfully challenged this order in the Bombay High Court and finally filed an appeal before the Supreme Court. Rajnesh was ordered by the Supreme Court to pay all his debts and make interim maintenance payments.

Guidelines by the Supreme Court of India

While adjudicating this case, the Court found the need to frame guidelines that would cover overlapping jurisdiction under different enactments for maintenance payment, interim maintenance payment, determining the quantum of maintenance, the date from which maintenance is to be awarded, and the enforcement of maintenance orders.

1. The Court while addressing the conflict arising out of overlapping jurisdiction noted that, while there is no restriction on invoking multiple laws to obtain maintenance, it would be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in a previous proceeding. As a result, the spouse seeking support must inform the Court if they have been awarded maintenance in a prior or separate proceeding. Furthermore, while determining the amount of maintenance, the Court must take into consideration any previous maintenance order in order to reduce or offset the amount.
2. The Court has simplified the interim maintenance process in light of the judicial delay in adjudicating interim maintenance actions and the usual practice of parties concealing their financial position. The Court created affidavit templates for parties to use when declaring their financial situation. It also established deadlines to avoid delays and observed that the respondent must make their disclosure within four weeks, and the concerned court must rule on interim maintenance within four to six months.
3. The Court acknowledged that there was no straitjacket formula to calculate the quantum of maintenance. The Court noted that the same should balance the applicant spouse's interests with the responding spouse's financial competence. The Court outlined considerations to examine when determining the amount of maintenance to be paid. The following items were included on the list, namely,
 - a) The parties' status,
 - b) The applicant's needs,
 - c) The respondent's income and property,
 - d) The claimant's liabilities and financial responsibilities,
 - e) The parties' age and employment status,
 - f) The parties' residential arrangements,
 - g) The parties' minor children's maintenance, and
 - h) Illness or disability.

The Supreme Court noted that in the past, courts have utilised a variety of criteria to determine when maintenance should be paid to the applicant, including the date the application was filed, the date of the court order, and the date the respondent received the notification. After

considering each of these cut-off dates, the Apex Court in the present case determined that awarding maintenance from the date of the application's submission would be in the applicant's best interests.

The Court devised three techniques to address the challenges of implementing maintenance orders. First, the maintenance orders might be implemented in the same way as a civil court decision would, with the court having civil detention, property attachment, and other powers. Second, the court may dismiss the respondent's defence. Finally, the court has the authority to begin contempt proceedings. Any of these tools might be used by the court to enforce maintenance orders.

Conclusion: Importance of Seeking Legal Advice in Alimony and Maintenance Matters

Navigating Section 125 CRPC can be a daunting task, but with the right guidance and support, it is possible to achieve a fair and equitable resolution to your alimony and maintenance concerns.

By understanding the basic concepts of alimony and maintenance, familiarizing yourself with the key provisions of Section 125 CRPC, and seeking the advice of an experienced family law attorney, you can approach your case with confidence and clarity.

Remember, every case is unique, and the court will consider a range of factors in making its decision. By being prepared, informed, and proactive, you can ensure that your rights are protected and that you receive the support you need to move forward with your life.