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# **INTERPRETATION OF MOHD. AHMED KHAN V. SHAH BANO BEGUM (1985)**

AUTHORED BY - ADITI JAIN

## **FACTS AND JUDGEMENT**

Statutory reading does more than just reading words; it is judicial search for fairness, coherence, and meaning. In the landmark case of Mohd. Ahmed Khan v. Shah Bano Begum<sup>1</sup>, the Supreme Court of India faced a difficult and complex question of the intersection between the personal laws and the statutory rights. In the present case, Shah Bano Begum is a 62-year-old Muslim women who got married in 1932. In 1975, she and her kids were abandoned by her husband without any prior notice and no compensation or financial support was provided by him.<sup>2</sup> In April 1978, the respondent filed a petition under Section 125 of CrPC<sup>3</sup>. The respondent argued that she is entitled to Rs 200 per month as maintenance, but the petitioner did not fulfill this duty. Also, she argued to increase the amount from Rs 200 to Rs 500 per month as the petitioner is in a position to fulfill this demand and she must maintain all the 5 children that were living with her.

In November 1978, the petitioner divorced the respondent by 'Triple Talaq'. It is observed that husband's use the power of Triple Talaq to easily evade the obligation of paying maintenance after divorce. He argued that 2years of maintenance has already been paid by him and rs3000 was paid by him as Mehr during 'iddat' period.

The main issue for the Supreme Court was if it is permissible for a divorced Muslim woman to get support as per Section 125 CrPC<sup>4</sup> after the iddat period terminates. The Court decided that section 125<sup>5</sup> is indeed a secular law meant to ensure destitution free society and that it should apply to all citizens without any exception to anything particular to their religious beliefs. It stated that a divorced Muslim woman, who cannot support herself is entitled to maintenance even after the iddat period, and the making of payment of mahr does not revoke the right to

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<sup>1</sup> Mohd. Ahmed Khan v. Shah Bano Begum [1985] AIR 945

<sup>2</sup> Mohd. Ahmed Khan v. Shah Bano Begum [1985] AIR 945

<sup>3</sup> The Code of Criminal Procedure 1973, s 125

<sup>4</sup> The Code of Criminal Procedure 1973, s 125

<sup>5</sup> The Code of Criminal Procedure 1973, s 125

maintenance.<sup>6</sup> The Court also explained that rights guaranteed by secular criminal law are not invalid by personal rules and that to have gender equality and nation unity, there must be a Uniform Civil Code. Hence, the Supreme Court upheld the value of equality and dignity in the constitution over religion personal rules to uphold Shah Bano's claim for maintenance.

In the recent statute, Section 144 of BNSS<sup>7</sup> talks about maintenance. It is just a replacement of section 125 of CrPC<sup>8</sup>. The present section defines the term 'wife' and clarifies that it would include divorcees and the women who haven't remarried.

### ANALYSIS

According to the traditional approach which still stands in the modern world, 'literal rule of interpretation' is the primary rule that shall be applied by the judges before any other rule. This rule enables the court to read and interpret the law as it is. It helps to restrict courts from making biased decision and limits the arbitrary power of the court in making new laws.<sup>9</sup> In the present case, section 125<sup>10</sup> was interpreted literally as the meaning of the word 'woman' was provided in the statute as being a divorcee or who has not been remarried. In 'G.P. Singh's Principles of Statutory Interpretation'<sup>11</sup>, it is laid down that literal interpretation shall be the primary rule and shall be unambiguous and clear. This judicial mindset was also seen in the case of 'B.N Mutto v. T.K Nandi'<sup>12</sup> in which the term 'person' in Section 14A of Delhi Rent Control Act<sup>13</sup> was interpreted literally and the court reasoned that the unambiguous and clear meaning of the statute shall be given effect even if it is not in line with the perceived legislative intent.

The case also hints towards 'mischief rule'. Introduced in the 'Heydon's'<sup>14</sup> case, this rule talks about the reason for a statute to come in force which is to reduce and address the mischief. The court specifically talks about why section 125 of CrPC<sup>15</sup> came into existence. It ought to protect

<sup>6</sup> Mohd. Ahmed Khan v. Shah Bano Begum [1985] AIR 945

<sup>7</sup> Bharatiya Nagarik Suraksha Sanhita 2023, s 144

<sup>8</sup> The Code of Criminal Procedure 1973, s 125

<sup>9</sup> Abhinav Palsikar, 'Critical Analysis of Literal Rule of Interpretation' (2020) SSRN <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3720368](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3720368)> accessed 15 June 2025

<sup>10</sup> The Code of Criminal Procedure 1973, s 125

<sup>11</sup> G.P. Singh, 'Principles of Statutory Interpretation' (LexisNexis India, 2021) <[https://store.lexisnexis.in/principles-of-statutory-interpretation?srsId=AfmBOoroJLI2MDe6OrkxARlsNadpa2X5RyAc\\_hlf59vXne1AfMWvdz3](https://store.lexisnexis.in/principles-of-statutory-interpretation?srsId=AfmBOoroJLI2MDe6OrkxARlsNadpa2X5RyAc_hlf59vXne1AfMWvdz3)> accessed 16 June

<sup>12</sup> B. N. Mutto & Anr vs T. K. Nandi 1979 AIR 460

<sup>13</sup> Delhi rent control act 1958, s 14A

<sup>14</sup> Heydon's case (1584) 3 Co Rep 7

<sup>15</sup> The Code of Criminal Procedure 1973, s 125

the dependent wives, regardless of their religious membership and was determined to avoid the evil. The Court reasoned that the goal of the legislation was to give disadvantaged groups in society a speedy, nonreligious remedy. In the case of 'Royal College of Nursing v. DHSS'<sup>16</sup> it was seen that the Abortion Act<sup>17</sup> was established to perform safe medical procedures and was laid down that nurses can be included in performing adoptions along with the doctors as it aligns with the purpose of the statute. Along with this, a deeper analysis would show the reliance on 'purposive interpretation' too. Ronald Dworkin, 'Law as integrity'<sup>18</sup> talks about how law must be interpreted by identifying the broader purpose of the law and should seek justice, coherence and should look upon statutes moral, economic and social objectives. The Court's interpretation of Sections 125<sup>19</sup> and 127 (3)(b)<sup>20</sup> was also in accordance with the more general goal of ensuring all women their dignity. Therefore, maintenance is a question of constitutional morality as well as personal laws. The Court stated that Section 125<sup>21</sup> was a secular criminal code and that religious discrimination could not be invoked to deny benefits under it.

Dworkin advocates that the judgement should align with old decisions and should fit into societal needs.<sup>22</sup> The present judgement ruled in favor of the Muslim women and increased their protection. This is consistent to the past judgements of empowering and helping women and is required in the current society irrespective of the religion the women belong to. The judgement was not a diversion from the existing rulings but just an evolution of it. Further, the laws should be compatible with the constitution. To understand the ruling of the present case, it is required to know the 'presumption in favour of constitutionality'<sup>23</sup> which means that it is always preferable to have a statute which is not violating the fundamental rights. The interpretation of Section 125<sup>24</sup> shows the adherence to Right to dignity (article 21<sup>25</sup>), as the section was declared to not just be confined to Muslim law. If so done otherwise, it would have violated gender equality, social justice and dignity of the individual. This would have made the

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<sup>16</sup> Royal College of Nursing v. DHSS [1981] AC 800

<sup>17</sup> Abortion Act 1967

<sup>18</sup> Ronald Dworkin, *law's empire* (first published 1988, Havard University Press)

<sup>19</sup> The Code of Criminal Procedure 1973, s 125

<sup>20</sup> The Code of Criminal Procedure 1973, s 127(3)(b)

<sup>21</sup> The Code of Criminal Procedure 1973, s 125

<sup>22</sup> Ronald Dworkin, *law's empire* (first published 1988, Havard University Press)

<sup>23</sup> G.P. Singh, *'Principles of Statutory Interpretation'* (LexisNexis India, 2021) < [https://store.lexisnexis.in/principles-of-statutory-interpretation?srsId=AfmBOoroJLl2MDe6OrkxaRlsNadpa2X5RyAc\\_hlf59vXne1AfMWvdz3](https://store.lexisnexis.in/principles-of-statutory-interpretation?srsId=AfmBOoroJLl2MDe6OrkxaRlsNadpa2X5RyAc_hlf59vXne1AfMWvdz3) > accessed 16 June

<sup>24</sup> The Code of Criminal Procedure 1973, s 125

<sup>25</sup> The constitution of India, art 21

interpretation absurd as the interpretation would have been narrow also because the maintenance would not have been granted after iddat period. By avoiding this, the courts wide interpretation upheld the rights and such interpretation which upholds justice and rights are always preferred over the ones that hampers it.

## CONCLUSION

It can be seen in this case, that it is possible that the court may use different interpretations, i.e. Purposive, literal and mischief rule, to come to a conclusion. Each method of interpretation brings more clarity to the judgement. As seen in this judgement, these different interpretations helped the court in analysing various details like the scope of section 125, narrow interpretation, secular nature of the section and many more other aspects that I have discussed in the paper.

The judgment is considered to be valuable in my opinion as it complies with the past decisions while looking forward to enable justice and equality in the society.

It should be considered as a judicial craftsmanship, not judicial activism, when statutes are interpreted broadly. It complies with constitutional requirements, upholds the intent of the legislator, prevents injustice, and modifies the law to reflect evolving circumstances. Words may be honoured by literal reading, but justice is honoured by broad interpretation.

Statutes must be regarded as living tools rather than inflexible formulas in a nation as diverse and dynamic as India. Ensuring that laws uphold the constitutional guarantees of equality, dignity, and social justice is the responsibility of the judiciary.