



FACULTY OF JURIDICAL SCIENCES

COURSE:

Semester

SUBJECT:

SUBJECT CODE:

NAME OF FACULTY:

Lecture-1



LECTURE 1: The Muslim Women Act of 1986

Maintenance under The Muslim Women (Protection of Rights on Divorce) Act, 1986

Section-3, 4 & 5 of The Muslim Women (Protection of Rights on Divorce) Act, 1986, deal with the captioned subject as to how to secure maintenance for the Muslim wife & children through the Court of law. The gist of these provisions of law is as follows:

Mahr or other properties of Muslim woman to be given to her at the time of divorce:

A divorced woman shall be entitled to-

1. a reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband ;
2. where she herself maintains the children born to her before or after her divorce, a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children ;
3. an amount equal to the sum of mahr or dower agreed to be paid to her at the time of her marriage or at any time thereafter according to Muslim law ; and
4. all the properties given to her before or at the time of marriage or after her marriage by her relatives or friends or the husband or any relatives of the husband or his friends.

Where a reasonable and fair provision and maintenance or the amount of mahr or dower due has not been made or paid or the properties have not been delivered to a divorced woman on her divorce, she or any one duly authorised by her may, on her behalf, make an application to the Magistrate for an order for payment of such provision and maintenance, mahr or dower or the delivery of properties, as the case may be.

Where an application has been made by a divorced woman, the Magistrate may, if he is satisfied that –

1. her husband having sufficient means, has failed or neglected to make or pay her within the iddat period a reasonable and fair provision and maintenance for her and the children ; or
2. the amount equal to the sum of mahr or dower has not been paid or that the properties have not been delivered to her, make an order, within one month of the date of filing of the application, directing her former husband to pay such reasonable and fair provision and maintenance to the divorced woman as he may determine as fit and proper having regard to the needs of the divorced woman, the standard of life enjoyed by her during her marriage and the means of her former husband or, as the case may be for the payment of such mahr or dower or the delivery of such to the divorced woman :

If any person against whom an order has been made fails without sufficient cause to comply with the order, the Magistrate may issue a warrant for levying the amount of maintenance or mahr or dower due in the manner provided for levying fines under the Code of Criminal Procedure, and may sentence such person, for the whole or part of any amount remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one year or until payment if sooner made, subject to such person being heard in defence and the said sentence being imposed according to the provisions of the said Code.

Order for payment of maintenance

Where a Magistrate is satisfied that a divorced woman has not re-married and is not able to maintain herself after the iddat period, he may make an order directing such of her relatives as would be entitled to inherit her property on her death according to Muslim law to pay such reasonable and fair maintenance to her as he may determine fit and proper, having regard to the needs of the divorced woman, the standard of life enjoyed by her during her marriage and the means of such relatives and such maintenance shall be payable by such relatives in the proportions in which they would inherit her property and at such period as he may specify in his order.

Where a divorced woman is unable to maintain herself and she has no relatives or such relatives or any one of them have not enough means to pay the maintenance ordered by the Magistrate or the other relatives, have not the means to pay the share of those relatives whose shares have been ordered by the Magistrate to be paid by such,

other relatives , the Magistrate may, by order, direct the State Wakf Board established under section 9 of the Wakf Act, 1954 or under any other law for the time being in force in a State, functioning in the area in which the woman resides, to pay such maintenance as, determined by him, as the case may be, to pay the shares of such of the relatives who are unable to pay, at such periods as he may specify in his order.

Option to be governed by the provisions of section 125 to 128 of Code of Criminal Procedure, 1973

If on the date of the first hearing of the application, a divorced woman and her former husband declare, by affidavit or any other declaration in writing in such form as may be prescribed, either jointly or separately, that they would prefer to be governed by the provisions of sections 125 to 128 of the Code of Criminal Procedure, 1973, and file such affidavit or declaration in the court hearing the application, the Magistrate shall dispose of such application accordingly.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.			
2.			
3.			
4.			
5.			

Answers: 1-(),2-(), 3-(),4-(),5-()