

No maintenance to wife living separately by mutual consent: HC

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The Punjab and Haryana High Court has ruled that a wife residing separately by mutual consent is not entitled to maintenance.

A perusal of Section 125(4) of the CrPC reveals that wife residing separately by mutual consent is not entitled to maintenance. — **High Court**

Justice Paramjeet Singh has also ruled that a wife is not entitled to maintenance when the couple is residing separately after divorce by mutual consent, and has accepted lump sum amount of maintenance as a full and final settlement.

With this, the HC has laid to rest the controversy on the entitlement of a divorced wife for maintenance till she remarries. The ruling came on a petition by a woman for maintenance. The marriage between the petitioner and her husband (now divorced) was solemnised on November 4, 1996. Initially, the husband filed a petition under Section 13 of the Hindu Marriage Act for divorce. But during pendency of the petition, the parties jointly moved for divorce by mutual consent.

During proceedings, a compromise was struck and the wife got Rs 1 lakh from the husband towards "full and final claim of maintenance".

Her counsel contended that a divorced wife was entitled to maintenance till she remarried, even if the divorce was with mutual consent and money was received in lump sum in lieu of maintenance as full and final settlement. The husband's counsel submitted that maintenance was paid by the respondent to the petitioner in final settlement.

Referring to Section 125(4) of the CrPC, Justice Paramjeet Singh said a wife was not entitled to maintenance, or even interim maintenance and proceeding expenses, from her husband if she was "living in adultery", or refused to live with her husband without sufficient reason or if the couple was living separately by mutual consent.

"The case of the respondent is on higher pedestal. Firstly, because the petitioner got divorce by mutual consent and thereafter she is residing separately by mutual consent. Secondly, she accepted a lump sum maintenance as final settlement and that stands paid."

Justice Singh concluded: "After divorce by mutual consent and when the parties are residing separately and lump sum maintenance as final settlement has already been accepted, petitioner-wife is not entitled to maintenance."

Source: <http://www.tribuneindia.com/2013/20130213/main7.htm>