Thus the 1986 Act, which had become confusing and controversial regarding the issues like: Husband liability to pay maintenance after iddat period. Effect of the Act on CrPC.

In Daniel Latifi v. Union of India, (2001) 7 SCC 74, The constitutional validity of Muslim Women (Protection of Rights on Divorce) Act, 1986 was challenged.

The SC while upholding the constitutionality of the act clarified that the fair and just provision of maintenance under sec 3(1) (a) of 1986 act shall extend beyond the period of iddat of his wife and it shall be made within iddat period.

The court held that although muslim women cannot file direct petition u/s 125 CrPC because of the Act passed in the year 1986. But SC by interpreting sec 3 of the act held that husband

Has to make such a provision during the iddat period that the maintenance provided by him shall be sufficient for the women for the period during iddat period or even after the iddat period. Any petition filed under sec 3 of the act shall be treated as petition u/s 125 CrPC.

Thus a muslim divorced wife has concurrent remedies under the 1986 act and sec 125 of the code.

In Iqbal Bano v. State of U.P. 2007 SC and Shabana Bano v. Imran Khan AIR 2010 SC the judgment of Danial Latifi was upheld.

In the light of aforesaid discussion, the court held that even if a muslim woman has been divorced, she would be entitled to claim maintenance from her Husband under sec 125 of CrPC after the expiry of iddat period as long as she does not re-marry.

Personal Law v. Sec 125

The provision of Sec 125 CrPC are applicable to all religions and have no relationship with the personal law of the parties. The provision relating to maintenance under any personal law is separate and distinct. There is no conflict between the two provision. If a person has already obtained a maintenance order under his or her personal law, the magistrate may take into consideration while fixing the quantum of maintenance under the code.

Maintenance under Hindu Law:

Under the Hindu Marriage Act, an order for maintenance may be made by the court:

(1)For maintenance pendente lite (interim or temporary) and expenses of the proceedings under Sec 24

(2)For permanent maintenance and alimony under sec 25.