

CASE LAW ON MAINTENANCE UNDER MOHAMMEDAN LAW

(A) Mohammedan Law – Maintenance proceedings by wife – Plea of divorce by husband – Proof of.

(B) Mohammedan Law – Divorce – Husband taking a plea of divorce given on earlier date in the presence of two or three witnesses and one of them not belonging to Islam – Even if factum of divorce is established it would not be a valid divorce if one of the witnesses did not belong to Islam.

© Mohammedan Law – Maintenance proceedings by Wife – Husband in written statement or in witness box invoking his right of Talaq in Ahsan or Hasan form – It would not be enough to prove divorce.

(D) Mohammedan Law – Divorce – Proof – In written statement husband taking the plea that on a particular date he had pronounced triple talaq by stating “I divorce my wife” Smt. - forever and render her haram for me in the presence of witnesses and in support of talaqnama/certificate of divorce is produced – Divorce becomes effective and irrevocable forthwith.

(E) Mohammedan Law – Divorce – Proof – Plea in written statement by husband that he had given Talaq at an earlier date would not by itself amount to Talaq unless fact of such talaq after following conditions precedent for valid talaq are duly proved.

(F) Mohammedan Law – Divorce – Popular concept of muslim marriage that husband has absolute freedom to dissolve marriage at his free will – Not correct.

(G) Mohammedan Law – Divorce – Oral talaq in case of minor or woman past menopause – Even in such a case there is waiting period of three lunar months even though there is no occurrence of menstruation. (**Dagdu s/o. Chotu Pathan V. Rahimbi Dagdu Pathan, 2002(23) ALL MR 265**)
