

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Crl.Misc.No.60422-M of 2006

DATE OF DECISION: SEPTEMBER 29, 2006

Sahab Khan

...PETITIONER

*VERSUS*

State of Haryana and another

....RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. Mohd.Salim, Advocate,  
for the petitioner.

...

Sahab Khan petitioner (husband) has filed this petition under Section 482 of the Code of Criminal Procedure for quashing the order dated 8.8.2006 passed by the Sub Divisional Judicial Magistrate, Ferozepur Jhirka as well as the order dated 4.9.2006 passed by the Sessions Judge, Gurgaon.

I have heard the counsel for the petitioner and gone through the impugned orders.

On an application filed by the respondent-wife for payment of the remaining maintenance allowance, Sub Divisional Judicial Magistrate, Ferozepur Jhirka called upon the petitioner to tender the payment of Rs.86,000/- which became due till date. The petitioner challenged the said order in revision on the ground that the trial Magistrate could not have executed the order for maintenance passed under Section 125 Cr.P.C. beyond the period of one year. While dismissing the revision, the revisional Court has held that since the execution application filed by the respondent wife was already pending, therefore, for subsequent arrears

no separate application was required. In case a prayer is made for recovery of the subsequent arrears during the pendency of the execution application, the limitation of one year would not be attracted. Counsel for the petitioner could not point out any illegality or infirmity in the aforesaid order. He only submitted that maintenance could be claimed for one year from the date on which it became due. In support of his contention, counsel for the petitioner relied upon a decision of the Karnataka High Court in B.G.Shivananjappa v. Shantha alias Ushadevi, 2005(1) RCR (Crl.) 244.

I do not find any force in the aforesaid contention raised by the counsel for the petitioner keeping in view the facts and circumstances of the case. If an execution application is filed and during the pendency of the said application, the amount of maintenance is not paid for the subsequent period, neither separate application is required nor the provisions of limitation of one year as provided under Section 125 Cr.P.C. will be attracted. The judgment cited by the counsel for the petitioner is distinguishable on facts.

In view of the aforesaid, I do not find any illegality or infirmity in the orders passed by both the Courts below.

Dismissed.

September 29, 2006  
vkg

(SATISH KUMAR MITTAL)  
JUDGE