



2026:AHC:217990

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION DEFECTIVE No. - 1632 of 2026

A.F.R.

Reserved On 19.08.2026

Delivered on 16.10.2026

Judgment uploaded on 16.10.2026

Smt Sunita

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Revisionist(s)	: Raja Ram Kushwaha
Counsel for Opposite Party(s)	: G.A.

Court No. - 83

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Sri Raja Ram Kushwaha, learned counsel for the revisionist, and Sri Pankaj Kumar, learned A.G.A for the State. Delay in filing this revision has already been condoned vide order dated 19.08.2026.

2. The present criminal revision has been preferred against the order dated 08.05.2026, passed by the learned Principal Judge, Family Court, Hamirpur in Criminal Misc. Case No. 287 of 2026 (Smt. Sunita vs. Avaneesh Kumar), whereby the application moved by the revisionist for enforcement of the order of maintenance/recovery of the maintenance amount under section 125(3) of the Code of Criminal Procedure (herein after referred as 'Cr.P.C.') /144(3) Bharatiya Nagarik Suraksha Sanhita (herein after referred as BNSS) was rejected on the ground that the

application for recovery was not filed within the limitation period of one year as contemplated under the first proviso to Section 125(3) Cr.P.C.

3. The relief sought by the revisionist as mentioned in the prayer clause of this revision is delineated below:-

“It, is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the criminal revision of the revisionist, set aside the Order dated 08.05.2026 passed by Principal Judge Family Court Hamirpur in Criminal Misc. Case No.287/2026 Smt. Sunita Vs. Avaneesh Kumar Under Section 125(3) Cr.P.C./ 144(3) B.N.S.S. P.S. Kotwali Nagar District Hamirpur rejecting the application Under Section 125(3) Cr.P.C./ 144(3) B.N.S.S. and further be pleased to stay the operation and effect of the order dated 08.05.2026 passed by Principal Judge Family Court Hamirpur in Criminal Misc. Case No.287/2026 Smt. Sunita Vs. Avaneesh Kumar Under Section 125(3) Cr.P.C./ 144(3) B.N.S.S. P.S. Kotwali Nagar District Hamirpur during pendency of present criminal revision, otherwise the revisionist shall suffer irreparable loss and injury.”

4. Brief facts of the case are that the marriage of the revisionist with opposite party No.2 was solemnized on 16.02.2021. Thereafter, due to matrimonial dispute, she was ousted from her matrimonial house on 22.08.2021. The revisionist, thereafter, initiated proceedings for maintenance under Section 125 CrPC. The learned Principal Judge, Family Court, Hamirpur, after hearing the parties, allowed the prayer for maintenance and by order dated 03.06.2023, the opposite party No.2 was directed to pay a monthly maintenance of Rs. 15,000/- to the revisionist.

5. Learned counsel for the revisionist submits that the opposite party No. 2 deposited the maintenance amount for the period from the date of application till the date of the judgment/order dated 03.06.2023. However, thereafter, he failed to pay regular maintenance in compliance with the maintenance order. Consequently, the revisionist moved an application dated 08.05.2026 for recovery of the maintenance, under Section 125(3) CrPC/144(3) BNSS.

6. Learned counsel for the revisionist further submits that the learned Principal Judge, Family Court, by the impugned order dated 08.05.2026, rejected the application on the ground that the application for recovery had been filed beyond the limitation period of one year prescribed under

the first proviso to Section 125(3) CrPC/144(3) BNSS. The impugned order dated 08.05.2026 passed by the learned Principal Judge, Family Court, Hamirpur, is pasted below :-

न्यायालय प्रधान न्यायाधीश, परिवार न्यायालय, हमीरपुर।
 दण्डिक प्रकीर्ण वाद सं०: 287/2026
 श्रीमती सुनीता बनाम अक्नीश कुमार

अन्तर्गत धारा 125(3) दं०प्र०सं०/
 144(3) बी.एन.एस.एस.
 थाना कोतवाली नगर, जिला हमीरपुर

दिनांक: 08.05.2026

आज यह भरण-पोषण वसूली हेतु प्रार्थना पत्र अन्तर्गत धारा 125(3) दं०प्र०सं०/
 144(3) बी.एन.एस.एस. आवेदिका श्रीमती सुनीता देवी, जिसकी शिनाख्त विद्वान अधिवक्ता
 श्री बृजेश कुमार साहू द्वारा की गयी है, के द्वारा न्यायालय में प्रस्तुत किया गया है।

सुना तथा मुंसरिम आख्या का अवलोकन किया।

प्रस्तुत प्रार्थना पत्र के अवलोकन से यह विदित हो रहा है कि इसी न्यायालय द्वारा
 भरण-पोषण वाद सं० 395/2021, श्रीमती सुनीता बनाम अक्नीश कुमार, अन्तर्गत धारा
 125 दं०प्र०सं०, थाना कोतवाली नगर, जिला हमीरपुर के प्रकरण में पारित निर्णय/आदेश
 दिनांकित 03.06.2023 के अनुपालन हेतु विपक्षी के विरुद्ध दिनांक 03.06.2023 से दिनांक
 02.05.2024 तक की 12 माह की अवधि के लिये अंकन 15,000/- रुपये प्रतिमाह की
 दर से अंकन 1,80,000/- रुपये की वसूली हेतु संस्थित किया गया है।

इस न्यायालय द्वारा पारित निर्णय/आदेश दिनांकित 03.06.2023 के अवलोकन से
 यह विदित हो रहा है कि मूल भरण-पोषण प्रार्थना पत्र प्रस्तुत करने की तिथि से निर्णय की
 तिथि तक की भरण-पोषण की घनराशि तीन माह में दो बराबर किश्तों में विपक्षी द्वारा अदा
 किया जाना है। साथ ही निर्णय की तिथि के बाद की भरण-पोषण की घनराशि प्रत्येक माह की
 10 तारीख तक विपक्षी द्वारा अदा किया जाना है।

प्रार्थना पत्र के अभिकर्तों से यह विदित हो रहा है कि मूल भरण-पोषण प्रार्थना पत्र
 प्रस्तुत करने की तिथि से निर्णय/आदेश की तिथि तक की भरण-पोषण घनराशि आवेदिका
 को प्राप्त हो चुकी है। परन्तु हस्तगत प्रकरण में आवेदिका द्वारा दिनांक 03.06.2023 से
 दिनांक 02.05.2024 तक के 12 माह के भरण-पोषण की घनराशि की विपक्षी से वसूली की
 याचना की गयी है। इससे यह विदित हो रहा है कि आज दिनांक 08.05.2026 को प्रस्तुत
 भरण-पोषण वसूली प्रार्थना पत्र के द्वारा तीन साल पूर्व की अवधि (दिनांक 03.06.2023 से
 दिनांक 02.05.2024 तक) की भरण-पोषण की घनराशि की वसूली याचित है।

इस संबंध में धारा 125(3) दं०प्र०सं० के प्रावधान का उल्लेख समीचीन होगा, जिसके
 तहत हस्तगत प्रार्थना पत्र प्रस्तुत किया गया है, जो इस प्रकार है-

125(3)- यदि कोई व्यक्ति जिसे आदेश दिया गया हो, उस आदेश का अनुपालन
 करने में पर्याप्त कारण के बिना असफल रहता है तो उस आदेश के प्रत्येक भाग के लिए ऐसा
 कोई मजिस्ट्रेट देय रकम को ऐसी रीति से उद्गृहीत किए जाने के लिए वारण्ट जारी कर
 सकता है, जैसा रीति जुमनि से उद्गृहीत करने के लिए उपबन्धित है और उस वारण्ट के
 निष्पादन के पश्चात प्रत्येक मास के न चुकाए गए [भरण-पोषण या अन्तरिम भरण-पोषण के
 भत्ते और कार्यवाहियों के खर्चे] या उसके किसी भाग के लिए ऐसे व्यक्ति को एक मास तक की
 अवधि के लिए अथवा यदि वह उससे पूर्व चुका दिया जाता है तो चुका देने के समय तक के
 लिए कारावास का दण्डादेश दे सकता है;

परन्तु इस धारा के अधीन देय किसी रकम की वसूली के लिए कोई वारण्ट तब तक
 जारी न किया जाएगा, जब तक देय रकम को उद्गृहीत करने के लिए उस तारीख से, जिसको
 वह देय हुई, एक वर्ष की अवधि के अन्दर न्यायालय से आवेदन नहीं किया गया है;

परन्तु यह और कि यदि ऐसा व्यक्ति इस शर्त पर भरण-पोषण करने की प्रस्थापना
 करता है कि उसकी पत्नी उसके साथ रहे और वह पति के साथ रहने से इन्कार करती है तो
 ऐसा मजिस्ट्रेट उसके द्वारा कथित इन्कार के आधारों पर विचार कर सकता है और ऐसी
 प्रस्थापना के किए जाने पर भी वह इस धारा के अधीन आदेश दे सकता है, यदि उसका
 समाधान हो जाता है कि ऐसा आदेश देने के लिए न्यायसंगत आधार है।

स्पष्टीकरण- यदि पति ने अन्य स्त्री से विवाह कर लिया है या वह रखैल रखता है तो
 यह उसकी पत्नी द्वारा उसके साथ रहने से इन्कार का न्यायसंगत आधार माना जाएगा।

इस प्रकार प्रथम परन्तुक के उक्त विधिक उपबन्ध के अनुसार किसी भरण-पोषण
 घनराशि की वसूली हेतु प्रार्थना पत्र, घनराशि के देय होने की एक वर्ष की अवधि के अन्दर,
 न्यायालय में प्रस्तुत किया जा सकता है। हस्तगत प्रकरण में आवेदिका द्वारा दिनांक
 03.06.2023 से दिनांक 02.05.2023 तक की अवधि के लिये यह प्रार्थना पत्र आज दिनांक
 08.05.2026 को प्रस्तुत किया गया है, जो निश्चित रूप से उक्त विधिक उपबन्ध में वर्णित
 समय सीमा के परे है। ऐसी स्थिति में यह प्रार्थना पत्र पोषणीय न होने के कारण निरस्त किये
 जाने योग्य है।

आदेश

तदनुसार भरण-पोषण वसूली प्रार्थना पत्र पोषणीय न होने के कारण निरस्त किया
 जाता है। पत्रायली नियमानुसार दाखिल-दफ्तर हो।

प्रधान न्यायाधीश
 परिवार न्यायालय, हमीरपुर।

7. Learned counsel for the revisionist further submits that the learned Principal Judge, Family Court, Hamirpur, has erred in rejecting the application under Section 125(3) CrPC, despite the judgment and order dated 03.06.2023 having attained finality. He submits that the learned Principal Judge was competent to enforce the said order in exercise of the powers conferred under Section 125(3) CrPC and could not have declined to enforce the recovery of the amount awarded therein by applying the restriction contained in the said provision on the ground that the execution application was filed for the first time after the expiry of more than three years from the date of the maintenance order. He further submits that the impugned order, in effect, renders the judgment and order dated 03.06.2023 ineffective, despite the same having attained finality. He, therefore, submits that the impugned order dated 08.05.2026 is legally unsustainable and is liable to be set aside.

8. Learned counsel for the revisionist relying upon the judgment of the Hon'ble Supreme Court in **Poongadi And Anr vs Thangavel 2013 (10) SCC 618**, submits that the first proviso to Section 125(3) CrPC does not extinguish or limit the entitlement of the applicants to the maintenance granted by the learned trial court, treating it as a continuing liability.

9. Per contra, Sri Pankaj Kumar, learned A.G.A. assisted the Court and submits that in case of **Poongadi (supra)**, the order of maintenance was passed on 12.01.1998, directing to pay the maintenance from the date of application i.e. 04.02.1993 and the first execution application was filed within a period of one year and the same is reflected in paragraphs 1 and 2 of the judgment. Paragraphs 1 and 2 are delineated below:

“1. Delay condoned. Leave granted. The appellants are the wife and son of one Thangavel. By an order dated 12-1-1998 passed by the learned trial court each of the appellants have been granted maintenance @ Rs 300 per month w.e.f. 4-2-1993 i.e. date of filing of the application under Section 125 of the Code of Criminal Procedure (CrPC). As the respondent husband had not complied with the order of payment, in a miscellaneous petition i.e. CMP No. 566 of 1998 filed by the appellant, the trial court by its order dated 21-7-1998 had sentenced the respondent to imprisonment. The default in payment of maintenance was for the period 4-2-1993 to 4-2-1998.

2. On 5-2-2002 another miscellaneous application (Crl. MP No. 394 of 2002) was filed by the appellants claiming maintenance for the period 4-2-1993 to 5-2-2002. The same was allowed by the learned Magistrate on 31-12-2002 against which the respondent had filed Crl. RC No. 620 of 2003. The High Court by its order dated 21-4-2004 [Thangavel v. Poongodi, Criminal Revision No. 620 of 2003, order dated 21-4-2004 (Mad)] held that as Crl. MP No. 394 of 2002 was filed on 5-2-2002, under the first proviso to Section 125(3) CrPC, the appellants were entitled to claim arrears for the period of one year preceding the date of filing of the application i.e. from 4-2-2001 to 5-2-2002. Accordingly, the High Court directed the respondent (revision petitioner before it) to pay the arrears for the aforesaid period within two months failing which it was directed that an arrest warrant would be issued against the respondent and the sentence of imprisonment earlier imposed by the learned Magistrate would come into effect. As the aforesaid order of the High Court had curtailed the entitlement of the appellants to maintenance to a period of one year prior to the date of filing of Crl. MP No. 394 of 2002, the appellants have filed this appeal.”

10. Learned A.G.A. for the State further submits that the impugned order does not call for any interference by this Court, as the revisionist failed to move an execution application under Section 125(3) CrPC/144(3) BNSS read with Section 128 CrPC/Section 147 BNSS, for recovery of the amount within one year from the date on which the amount became due, as contemplated under the first proviso to Section 125(3) CrPC/144(3) BNSS. It is submitted that the statutory requirement for the issuance of a warrant under the said provision has not been complied with and, therefore, the court below has rightly declined to grant the coercive remedy sought by the revisionist for the time barred period. For ready reference, the provision of Section 125(3) CrPC/144(3) BNSS is delineated below:-

“Section 125(3) Cr.P.C.- *If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:*

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him,

such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. - If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him."

11. Reverting to the arguments raised by learned A.G.A., learned counsel for the revisionist further submits that the first proviso to Section 125(3) CrPC/144(3) BNSS only restricts the issuance of a warrant for recovery after the prescribed limitation period has elapsed; it does not extinguish the right of the wife to claim the amount of maintenance which is due, nor does it bar the enforcement mechanism available under Section 128 CrPC/ Section 147 BNSS. He further submits the provisions of law have been wrongly interpreted by the learned Principal Judge, while rejecting the application filed by the revisionist. To buttress his argument, he has placed reliance upon paragraph No.4 of the judgment in **Poongodi (Supra)**, which is delineated below:-

*"4. A reading of the order dated 21.4.2004 passed by the High Court would go to show that the proviso to Section 125(3) CrPC has been construed by the High Court to be a fetter on the entitlement of the claimants to receive arrears of maintenance beyond a period of one year preceding the date of filing of the application under Section 125(3) CrPC. **Having considered the said provision of the Code we do not find that the same creates a bar or in any way affects the entitlement of a claimant to arrears of maintenance. What the proviso contemplates is that the procedure for recovery of maintenance under Section 125(3) CrPC, namely, by construing the same to be a levy of a fine and the detention of the defaulter in custody would not be available to a claimant who had slept over his/her rights and has not approached the Court within a period of one year commencing from the date on which the entitlement to receive maintenance has accrued. However, in such a situation the ordinary remedy to recover the amount of maintenance, namely, a civil action would still be available.**"*

(emphasis added)

12. It is well settled that, where an order for payment of interim or final maintenance and expenses of the proceedings is passed under Section 125(1) CrPC/Section 144(1) BNSS in favour of a wife, child or parent unable to maintain themselves, against a person having sufficient means who neglects or refuses to maintain them, and such person fails,

without sufficient cause, to comply with the order, the amount of maintenance may be recovered in accordance with Section 125(3) CrPC/Section 144(3) BNSS. An application for recovery under Section 125(3) CrPC/Section 144(3) BNSS, read with Section 128 CrPC/Section 147 BNSS, is required to be made within one year from the date on which the amount became due. For every breach of the order, the Court may issue a warrant for levying the amount due in the manner provided for levying fines under Section 421 CrPC./Section 461 BNSS. If, for any reason, the amount remains unpaid, the person against whom the order has been passed may be sentenced to imprisonment for a term which may extend to one month or until payment, if sooner made. For ready reference, the provision of Sections 125(1), (2) & (3) CrPC/144 (1), (2) & (3) BNSS, 128 CrPC/147 BNSS and Section 421 CrPC/461 BNSS are delineated below:-

Section 125 Cr.P.C.. Order for maintenance of wives, children and parents.-(1) Order for maintenance of wives, children and parents.
—(1) If any person having **sufficient means neglects or refuses to maintain**—

(a) **his wife, unable to maintain herself, or**

(b) **his legitimate or illegitimate *minor child*, whether married or not, unable to maintain itself, or**

(c) **his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or**

(d) **his father or mother, unable to maintain himself or herself,**

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a *monthly allowance for the maintenance* of his wife or such child, father or mother, at such *monthly rate* as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, *until she attains her majority*, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the *pendency* of the *proceeding regarding* monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the *interim maintenance* of his wife or such child, father or mother, **and the expenses of such proceeding which the**

Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

*Provided also that an application for the **monthly allowance** for the **interim maintenance** and **expenses of proceeding** under the second proviso shall, as far as possible, be disposed of within **sixty days** from the date of the **service of notice** of the application to such person.*

Explanation.—For the purposes of this Chapter,—

(a) “minor” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is

deemed not to have attained his majority;

(b) “wife” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

*(2) Any **such allowance** for the maintenance or interim maintenance and expenses of proceeding shall be payable from the **date of the order**, or, if so ordered, from the **date of the application for maintenance** or interim maintenance and expenses of proceeding, as the case may be.*

*(3) If any person **so ordered** fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a **warrant for levying** the amount due in the manner provided for **levying fines**, and **may sentence** such person, for the whole or any part of each month’s allowance for the **maintenance or the interim maintenance and expenses of proceeding**, as the case may be, **remaining unpaid after the execution of the warrant**, to **imprisonment for a term which may extend to one month or until payment if sooner made**:*

*Provided that **no warrant** shall be issued for the recovery of any amount due under this section **unless application be made to the Court to levy such amount within a period of one year from the date on which it became due**:*

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife’s refusal to live with him.

Section 128 Cr.P.C.. Enforcement of order of maintenance.—*A copy of the order of maintenance or interim maintenance and expenses of proceedings, as the case may be, shall be given without payment to the person in whose favor it is made, or to his guardian, if any, or to the person to whom the allowance for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be, is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.*

Section 421 Cr.P.C.. Warrant for levy of fine.—(1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.

(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

13. As per Section 125(3) CrPC/144(3) BNSS, if a person so ordered, fails without sufficient cause to comply with the order, the execution court shall issue a warrant to recover the unpaid allowance of maintenance in the manner provided for levying a fine, that is to say, that for the recovery of fine provision has been made under Section 421 CrPC/461 BNSS. Thus, as per Section 421(1)(a), the court may issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the defaulter, or under Section 421(1)(b), the Court may issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter.

14. As per Section 421(3) CrPC, the amount is to be realised in accordance with the law relating to the recovery of arrears of land revenue, as if the warrant were a **certificate issued** under such law.

15. Once the Collector receives the warrant authorising the recovery of the specified amount as arrears of land revenue, the revenue machinery proceeds on the basis of the amount certified for recovery in accordance with the provisions of the U.P. Revenue Code, 2006, U.P. Revenue Code Rules, 2016 and U.P. Revenue Recovery Rules, 1969 etc.

16. Upon receipt of the recovery warrant/certificate, the Collector/Tahsildar shall treat the amount as a recoverable arrears and proceed in accordance with the U.P. Revenue Code, 2006. A writ of demand is first issued under Section 169 of the U.P Revenue Code 2006, calling upon the defaulter to pay the amount within the prescribed period. In case of failure to comply, the recovery processes contemplated under Section 170 of the Revenue Code 2006, may be initiated, including attachment and sale of movable property, attachment of bank account or locker, attachment of land or other immovable property, and appointment of a receiver. Where necessary, the attached property may thereafter be leased or sold in accordance with the prescribed procedure, and the amount so realised is appropriated towards satisfaction of the certified arrears.

17. **Section 168 of the Uttar Pradesh Revenue Code, 2006** provides that a statement of account certified by the Tahsildar is conclusive evidence, for the purposes of that Chapter, regarding the existence of amount of arrears and the person who is the **defaulter**. Section 168 of the U.P. Revenue Code, 2006 is delineated below:

“Section 168-Certified Account to be evidence of arrears.-A statement of account certified by the Tahsildar shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear of land revenue, of its amount and of the person who is the defaulter.”

18. Under **Section 169 of the U.P. Revenue Code, 2006** (read with Rules 141 to 143 of U.P. Revenue Code Rules, 2016) as soon as an

arrears becomes due, the Tahsildar may issue a **writ of demand** against the defaulter, calling upon him either to appear or to pay the amount within the specified time. Thus, the first formal recovery step under the U.P. Revenue Code is the writ of demand. The provision of Section 169 of the U.P. Revenue Code, 2006 is delineated below :-

“S.169. Writ of demand.-As soon as an arrear of land revenue has become due, a writ of demand may be issued by the Tahsildar against the defaulter calling upon him to appear or to pay the amount within a time to be specified.”

19. If the amount remains unpaid within the period specified in the writ of demand, **Section 170 of the U.P. Revenue Code, 2006** becomes operative. The Code then permits recovery through **one or more prescribed processes**, and importantly, two or more processes may be employed **simultaneously or one after another**. The provision of Section 170 of UP Revenue Code is delineated below:-

“170. Process for recovery of arrears.

(1)An arrear of land revenue remaining unpaid within the time specified in the writ of demand, may be recovered by any one or more of the following processes, namely -

(a)by arrest and detention of the defaulter;

(b)by attachment and sale of his movable property including agricultural produce;

(c)by attachment of any bank account or locker of the defaulter;

(d)by attachment of the land in respect of which the arrear is due;

(e)by lease or sale of the land in respect of which the arrear is due;

(f)by attachment and sale of other immovable property of the defaulter;

(g)by appointing a receiver of any property, movable or immovable, of the defaulter;

Explanation. - For the removal of doubts, it is hereby declared that two or more processes herein before mentioned may be issued and enforced simultaneously or one after the other.

(2) Sums of money recoverable as arrears of land revenue, but not due in respect of any specific land, may be recovered by process under this section from any immovable property of the defaulter including any holding of which he is a bhumidhar.”

20. (i) Under **Section 170(1)(b)**, the defaulter's movable property, including agricultural produce, may be **attached and sold**. The detailed

procedure for attachment and sale is prescribed under the relevant provisions of the Code and Rules.

(ii) Under **Section 170(1)(c) read with Section 173**, the defaulter's bank account or locker can be attached. The Rules specifically provide that attachment of a bank account is ordinarily effected by serving a **garnishee order in R.C. Form-40** upon the concerned Branch Manager.

(iii) The Rules further provide for the handling of the attached locker and, where sufficient money is available in the bank account, its deposit in the treasury on the written direction of the Sub-Divisional Officer.

(iv) **Section 170(1)(d)** permits attachment of the land in respect of which the arrears is due. Under **Section 174**, where the arrears is not paid within the prescribed period after attachment, the Collector may proceed further for **lease or sale** of the holding in accordance with Sections 175 and 176.

(v) Under **Section 175**, an attached holding may be let out by the Collector for a period prescribed by law, subject to the statutory conditions. The income arising from the lease is utilised in the statutory manner towards the arrears.

(vi) **Section 170(2)** expressly provides that sums recoverable as arrears of land revenue but **not due in respect of any specific land** may be recovered through the processes under Section 170 from **any immovable property of the defaulter**, including his holding.

21. Thus, once the amount is placed before the revenue authorities as recoverable as arrears of land revenue, recovery is not necessarily confined to the particular land with which the original liability may be connected.

22. **Section 170(1)(g)** additionally permits recovery by **appointment of a receiver of any property, movable or immovable, of the defaulter**. The Code therefore gives the revenue authorities a range of recovery mechanisms rather than restricting them to one particular process.

23. Where recovery proceeds to sale of immovable property, the Code prescribes a formal **proclamation of sale** under Section 184 of the Revenue Code, 2006. The proclamation is required to contain particulars including the property, estimated value/reserve price, encumbrances, amount of arrears, and the date, time and place of sale. Further, the sale cannot take place until expiry of the statutory period after proclamation.

24. The Revenue Code also provides statutory remedies against attachment and sale. For example, under the Revenue Rules, an application for setting aside a sale of holding or other immovable property may be made to the Collector within **30 days from the date of sale**, subject to the statutory requirements regarding deposit.

25. In the present case, admittedly, no application for recovery of the amount of maintenance due under the order of maintenance was filed within one year from the date on which the amount became due, however, in the judgment of the Hon'ble Supreme Court in **Poongodi (supra)**, the application was moved just one month after the date of the maintenance order. Consequently, the restriction contained in the first proviso to Section 125(3) CrPC would operate against the revisionist (wife) insofar as recovery of the amount through the coercive process contemplated under Section 125(3) CrPC is concerned. Thus, no illegality can be said to have been committed by the court below in passing the impugned order so far as coercive process provided under Section 125(3) CrPC is concerned.

26. It is, however, clarified that where an application for recovery of the amount of maintenance due under the order of maintenance is filed within one year and the same remains pending and is not decided, the mere pendency of such application would not require the person entitled to maintenance to institute successive applications for every subsequent period of default. Once the first application for enforcement/execution of the order of maintenance is instituted within the period contemplated under Section 125(3) CrPC, the maintenance payable under the original

order continues to accrue on a month to month basis and the liability to pay the same remains a continuing liability.

27. There is no absolute bar on filing an application for recovery of arrears of maintenance after the expiry of one year. The expiry of one year does not extinguish the liability of the husband or the right of the wife/child to receive the maintenance. However, where the application is not filed within one year from the date on which the amount became due, the coercive mode of recovery under Section 125(3) CrPC/144(3) BNSS particularly issuance of a warrant and detention of the defaulter, would not be available for such period.

28. Thus, from the date of the order passed under Section 125 CrPC/144 BNSS, the maintenance payable thereunder constitutes a recurring liability, and where an application for its enforcement is filed within one year from the date on which the amount became due, the subsequent maintenance accruing under the said order continues to remain recoverable without the necessity of filing successive applications, subject to any order passed subsequently modifying, cancelling or otherwise affecting the entitlement to maintenance. The expression “amount became due” means the date of order on which the claim of maintenance has been accepted by the court and to comply the order of maintenance, an execution application is filed. Therefore, the period of one year shall be counted from the date of granting of maintenance and once, the execution application is filed for the first time, the period of one year shall be counted to execute the maintenance order by issuing warrant to recover the amount of maintenance.

29. The Hon’ble Supreme Court in **Poongadi** (supra) has held as under:-

*“6. In another decision of this Court in **Shantha alia Ushadevi and Another v. B.G. Shivananjappa** 2005(2) RCR (Criminal) 796 : (2005) 4 SCC 468 it has been held that the liability to pay maintenance under Section 125 CrPC is in the nature of a continuing liability. The nature of the right to receive maintenance and the concomitant liability to pay was also noticed in a decision of this Court in **Shahada Khatoon & Ors. v. Amjad Ali & Ors.***

(1999) 5 SCC 672. Though in a slightly different context, the remedy to approach the court by means of successive applications under Section 125(3) CrPC highlighting the subsequent defaults in payment of maintenance was acknowledged by this Court in Shahada Khatoon (supra).

7. The ratio of the decisions in the aforesaid cases squarely apply to the present case. The application dated 05.02.2002 filed by the appellants under Section 125(3) was in continuation of the earlier applications and for subsequent periods of default on the part of the Respondent. The first proviso to Section 125(3), therefore did not extinguish or limit the entitlement of the appellants to the maintenance granted by the learned trial court, as has been held by the High Court.

*8. In view of the above, we are left in no doubt that the order passed by the High Court needs to be interfered with by us which we accordingly do. The order dated 21.04.2004 of the High Court is set aside and we now issue directions to the respondent to pay the entire arrears of maintenance due to the appellants commencing from the date of filing of the Maintenance Petition (M.C.No.1/1993) i.e. 4.2.1993 within a period of six months and current maintenance commencing from the month of September, 2013 payable on or before 7th of October, 2013 and thereafter continue to pay the monthly maintenance on or before the 7th of each successive month. **If the above order of this Court is not complied with by the Respondent, the learned Trial Court is directed to issue a warrant for the arrest of the respondent and ensure that the same is executed and the respondent taken into custody to suffer imprisonment as provided by Section 125(3) CrPC.***

emphasis supplied

30. The facts of the above case are different from the case in hand. In **Poongodi (Supra)**, the appellants, wife and son of the respondent, were granted maintenance under Section 125 CrPC w.e.f. 04.02.1993 vide order dated 12.01.1998. Despite the order of maintenance dated 12.01.1998, the respondent failed to pay the maintenance, therefore the appellant moved an application for execution of order dated 12.01.1998, wherein the respondent husband was sentenced to imprisonment for the period of default vide order dated 21.07.1998. Subsequently, the appellants filed another application seeking arrears of maintenance from 04.02.1993 to 05.02.2002. While the Magistrate allowed the claim, the High Court restricted the recovery to one year preceding from the date of the second execution application, relying upon the first proviso to Section 125(3) CrPC. The Supreme Court set aside the High Court's order and held that the proviso to Section 125(3) CrPC does not

extinguish or restrict the substantive entitlement to arrears of maintenance; it only limits the availability of the coercive mode of recovery under Section 125(3) if the application is not made within one year. The Court further held that the liability to pay maintenance is a continuing liability and that subsequent applications for subsequent defaults can be maintained. Accordingly, the Supreme Court directed payment of the entire arrears of maintenance from 04.02.1993, along with continuing monthly maintenance. However, in the present case, the revisionist (wife) has failed to move any application for recovery of maintenance/execution of order of maintenance within the time prescribed under Section 125(3) CrPC/144 (3) BNSS.

31. As per the provision of Section 125(2) CrPC/144(2) BNSS, the concerned Court can grant maintenance either from the date of application or from the date of order. However, the Hon'ble Apex Court in ***Rajnesh v. Neha and others*, (2021) 2 SCC 324**, has held in paragraph nos. 109-113 that the maintenance shall be made payable from the date of application. For ready reference the provision of Section 125(2) Cr.P.C/144(2) B.N.S.S as well as the paragraph nos. 109-113 of the judgment in **Rajnesh** (supra) are delineated below respectively:-

“Section 125(2) Cr.P.C/144(2) B.N.S.S.

*(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding **shall be payable from the date of the order, or, if so ordered, from the date of the application** for maintenance or interim maintenance and expenses of proceeding, as the case may be.”*

Paragraph nos. 109-113 of the judgment in Rajnesh (supra):-

“109. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the court to grant maintenance either from the date of application or from the date of the order in Section 125(2) CrPC, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 CrPC. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

110. In Shail Kumari Devi v. Krishan Bhagwan Pathak [Shail Kumari Devi v. Krishan Bhagwan Pathak, (2008) 9 SCC 632 : (2008) 3 SCC (Cri) 839], this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In Bhuwan Mohan Singh v. Meena [Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200], this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

111. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned.

112. In Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51], the Supreme Court was considering the interpretation of Section 125 CrPC. The Court held :

“13.3. ... purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve “social justice” which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.”

(emphasis supplied)

113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.”

emphasis supplied

32. Where an order passed under Section 125(1) CrPC directs payment of maintenance from the date of the application, the fact that such entitlement has been granted retrospectively from the date of the application would not mean that the period of one year contemplated under the first proviso to Section 125(3) CrPC would commence from the date of filing of the original maintenance application. The amount awarded becomes enforceable pursuant to the order passed under Section 125(1) CrPC, and, therefore, for the purpose of the coercive remedy under Section 125(3) CrPC, the period of one year is to be reckoned from the date on which the amount became due in terms of the substantive order of maintenance. The subsequent accrual of monthly maintenance constitutes a continuing liability, and the first proviso to Section 125(3) Cr.P.C. does not extinguish the substantive right of the claimant to receive such maintenance.

Execution of order of maintenance under different provisions of law

33. The enforcement of maintenance orders constitutes an important aspect of matrimonial and family law, as it seeks to secure the financial interests of persons legally entitled to maintenance. The Hindu Marriage Act, 1955 (HMA), the Hindu Adoptions and Maintenance Act, 1956 (HAMA), the Cr.P.C. and the BNSS contain provisions for the grant and enforcement of maintenance. The extent of coercive measures permissible for non-compliance with such orders, particularly the period of imprisonment that may be imposed upon a defaulter and the limitations governing successive periods of detention, is, however, governed by the provisions of the respective enactments. It is, therefore, necessary to examine the statutory framework in order to determine the permissible duration of imprisonment for default in payment of maintenance and the legal restrictions applicable thereto.

34. The provisions relating to maintenance are intended to secure financial support for persons legally entitled thereto and to prevent their deprivation of the means necessary for their sustenance. Section 24 of the Hindu Marriage Act, 1955 (HMA), provides for maintenance

pendente lite and expenses of proceedings to a spouse who lacks sufficient independent income for their support and the necessary expenses of the proceedings. Section 18 of the Hindu Adoptions and Maintenance Act, 1956 (HAMA), recognises the right of a Hindu wife to claim maintenance from her husband, subject to the conditions prescribed therein. In the event of non-compliance with an order or decree granting maintenance, the person entitled thereto may seek enforcement through the remedies available under the applicable law. Similarly, Section 125 of the Code of Criminal Procedure, 1973 (CrPC), now corresponding to Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), provides for the grant of maintenance, including interim maintenance, and prescribes a mechanism for enforcing such orders. The nature and extent of the remedies available for default in payment, particularly the permissible period of imprisonment and the restrictions governing successive orders of imprisonment, are required to be determined in accordance with the relevant statutory provisions.

35. In addition to above, Section 18 of the Family Courts Act, 1984, governs the **execution** of maintenance orders, which is delineated below:-

“Section 18 of Family Courts Act. Execution of decrees and orders:-

(1) A decree or an order, other than an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974), passed by a Family Court shall have the same force and effect as a decree or order of a civil court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 (5 of 1908) for the execution of decrees and orders.

(2) An order passed by a Family Court under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) shall be executed in the manner prescribed for the execution of such order by that Code.

(3) A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary civil court to which it is sent for execution.”

36. It is pertinent to note that Section 18(1) and (2) of the Family Courts Act, 1984, prescribes the mode of execution of judgments and orders passed by a Family Court and provides a distinct mechanism in respect of orders passed under Chapter IX of the Cr.P.C., corresponding

to Chapter X of the BNSS. This distinction assumes significance in determining the procedure applicable to the enforcement of maintenance orders passed under different statutory provisions.

37. The orders and decrees, granting maintenance under Section 24 of the HMA and Section 18 of the HAMA are enforceable in accordance with the procedure prescribed under the CPC, 1908, subject to the applicable statutory provisions. On the other hand, an order granting maintenance under Section 125 Cr.P.C., corresponding to Section 144 of the BNSS, is enforceable in accordance with Section 125(3) read with Section 128 Cr.P.C., corresponding to Section 144(3) read with Section 147 of the BNSS. Accordingly, the procedure for enforcement, including the consequences of default in payment of maintenance, is governed by the relevant provisions applicable to the nature of the order in question.

38. Thus, for the execution of maintenance orders under Hindu Marriage Act and Hindu Adoptions And Maintenance Act, provisions of the Code of Civil Procedure, 1908 are attracted. Section 51(c) of CPC empowers the court to enforce a money decree by arresting and detaining the judgment-debtor in civil prison. However, the court must be satisfied that the judgment-debtor has the means to pay but is willfully refusing to do so and a show-cause notice under Order 21 Rule 37 CPC must be issued, allowing the judgment-debtor an opportunity to justify why they should not be detained. For ready reference, the provision of section 51 CPC is delineated below:-

“Section 51 CPC. Powers of Court to enforce execution .- Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree-

(a) by delivery of any property specifically decreed;

(b) by attachment and sale or by sale without attachment of any property;

(c) by arrest and detention in prison [for such period not exceeding the period specified in section 58, where arrest and detention is permissible under that section;]

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require:[Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered

unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied-

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,-

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property, or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation .-In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.”

39. The limitation on civil imprisonment for default in payment of maintenance is governed by Section 58 CPC, which is delineated below:-

“Section 58 CPC. Detention and release.

(1) Every person detained in the civil prison in execution of a decree shall be so detained,

(a) where the decree is for the payment of a sum of money exceeding five thousand rupees, for a period not exceeding three months, and,

(b) where the decree is for the payment of a sum of money exceeding two thousand rupees, but not exceeding five thousand rupees, for a period not exceeding six weeks.

(1A) For the removal of doubts, it is hereby declared that no order for detention of the judgment debtor in civil prison in execution of a decree for the payment of money shall be made, where the total amount of the decree does not exceed two thousand rupees.

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be re-arrested under the decree in execution of which he was detained in the civil prison.”

40. It is important to note that Section 58(1) of CPC sets the maximum period of civil imprisonment for non-compliance with a money decree as **three months**. Furthermore, Section 58(2) CPC explicitly states that once a person has been released from detention under this provision, they cannot be re-arrested in execution of the same

decree under which they were previously imprisoned. The Hon'ble Supreme Court in the case of **Rajnesh v. Neha**, (2021) 2 SCC 324 discussed the enforcement of orders of maintenance in the following terms in paragraph 115 of the judgment, which is delineated below:-

“115. An application for execution of an order of maintenance can be filed under the following provisions:

(a) Section 28-A of the Hindu Marriage Act, 1955 read with Section 18 of the Family Courts Act, 1984 and Order 21 Rule 94 CPC for executing an order passed under Section 24 of the Hindu Marriage Act (before the Family Court);

(b) Section 20(6) of the DV Act (before the Judicial Magistrate); and

(c) Section 128 CrPC before the Magistrate's Court.”

41. The Hon'ble Delhi High Court, in the case of **Mohiet Anand vs. Parul Anand**, 2024 SCC OnLine Del 1968, in paragraph 24 and 46 of the judgment has held as under :-

“24. Therefore, it is evident a Decree and Order for recovery of the arrears of maintenance passed under Section 24 of the Hindu Marriage Act, 1955, shall have the same force and effect as a decree of a Civil Court and has to be recovered as per the procedure detailed in Order 21 Rule 94 CPC, 1908. Thus, we hold that an Order under Section 24 Hindu Marriage Act, can be enforced under Section 28-A of Hindu Marriage Act, 1955 read with Section 18 of Family Courts Act, 1984 and CPC.”

“46. We thus conclude that it is the total period in civil prison in execution of the decree in the same suit, cannot exceed three months. Though the decree may be executed in instalments as in the case of maintenance orders, but the decree/order being only one, arrest can be made as prescribed, for a maximum period of three months. Though the execution petition may be filed for realization of the maintenance that may become due from time to time but that would not give a right to seek further imprisonment beyond the maximum period as prescribed by Section 58(2) of the CPC. A person who has already having been sent to civil imprisonment for a period of three months, cannot be sent to civil prison again in execution of the same decree for a second time. Further, merely because the judgment debtor had been detained in civil prison for the full term of three months as provided under Section 58(2) of the CPC, his debt cannot be said to be discharged, which can still be recovered through other means as provided in the section.”

42. However, neither the Hindu Marriage Act, 1955 (HMA) nor the Hindu Adoptions and Maintenance Act, 1956 (HAMA) prescribes imprisonment as a punishment for default in payment of maintenance.

Where the maintenance order/decreed is executable as a money decree, detention in civil prison can be resorted to only in accordance with Sections 51 and 58 read with Order XXI CPC. Under Section 58 CPC, where the decretal amount exceeds ₹5,000/-, the maximum period of detention is three months. Such detention is only a mode of execution and does not extinguish the liability.

43. The Maintenance orders passed under Section 125 CrPC follow a different execution mechanism. Unlike civil maintenance orders under Hindu Marriage Act (HMA), which are governed by CPC, maintenance orders under CrPC are enforced through a warrant procedure as provided under Section 18 of the Family Courts Act, 1984, allowing repeated imprisonment for each month's default. Section 125(3) CrPC allows a defaulter to be sentenced to imprisonment upto one month for each month's default, meaning multiple incarcerations can occur for separate monthly defaults. Section 125(3) of Cr.P.C./ Section 144 (3) of BNSS reads as under:—

“If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made..”

44. The Hon'ble Delhi High Court in the case of **Mohiet Anand vs Parul Anand, 2024 SCC OnLine Del 1968** clarified this position in paragraph no. 50 of the judgment, which is delineated below:-

“50. From the bare perusal of the aforesaid section, it is evident that for a default of every month in payment of maintenance, the defaulter can be sent to one month imprisonment. Therefore, for every month, the defaulter is liable to be sent to one month imprisonment.”

45. This, imprisonment under the CrPC/BNSS is not subject to the same cumulative limit as civil detention under the CPC. A defaulter may be subjected to successive terms of imprisonment, not exceeding one month for each default, subject to statutory conditions. This establishes a

strict enforcement mechanism prescribed for the maintenance obligations under criminal procedural law.

46. The enforcement of maintenance orders is an important aspect of matrimonial law, intended to secure financial support for spouses and children. However, such enforcement must remain subject to the legal safeguards governing personal liberty. Under the CPC, the period of civil detention for execution of a maintenance decree is governed by Section 58, while further recovery may be pursued through legally permissible modes, including attachment of property. In contrast, the CrPC/BNSS permits successive terms of imprisonment for maintenance defaults, subject to statutory limitations. Maintenance orders under the HMA are enforced in accordance with the applicable civil procedure. The distinction is summarised in the table given below:

The Maximum period of civil imprisonment for default of maintenance:-

S. No.	Section 24 of HMA as per CPC	Section 18 of HAMA as per CPC	Section 125 of CrPC / Section 144 of BNSS
1.	Maximum 3 months civil imprisonment	Maximum 3 months civil imprisonment	1-month imprisonment for each month of default

47. Thus, the judicial approach seeks to ensure the effective enforcement of maintenance orders while safeguarding individuals against unlawful or excessive detention. During execution, Courts must exercise their powers judiciously and adhere to the statutory limits and procedural safeguards prescribed under the law while executing maintenance order or decrees.

The Relevant provisions regarding maintenance and its execution as per Gram Nyayalayas Act, 2008:-

48. The Gram Nyayalayas Act, 2008 was enacted with the object of providing access to justice at the grass-root level and, in furtherance of the said object, Section 12 of the Act confers criminal jurisdiction upon a Gram Nyayalaya in respect of the offences and matters specified in Part II of the First Schedule to the Act.

12. Criminal jurisdiction.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall—

(a) try all offences specified in Part I of the First Schedule; and

(b) try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.

49. The particular relevance is of clause (v) of Part II of the First Schedule, which expressly includes orders for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973. Thus, maintenance proceedings falling within the said statutory category constitute a matter in respect of which jurisdiction has specifically been conferred upon the Gram Nyayalaya.

“Part II – Offences and relief under the other Central Acts

(i) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871(1 of 1871);

(ii) the Payment of Wages Act, 1936 (4 of 1936);

(iii) the Minimum Wages Act, 1948 (11 of 1948);

(iv) the Protection of Civil Rights Act, 1955 (22 of 1955);

(v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);

(vii) the Equal Remuneration Act, 1976 (25 of 1976);

(viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005).”

50. Section 25 of the Gram Nyayalayas Act, 2008 specifically deals with **execution of decrees and orders** of a Gram Nyayalaya in civil proceedings.

25. Execution of decrees and orders of Gram Nyayalaya.—

(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) the judgment passed by a Gram Nyayalaya shall be deemed to be a decree and it shall be executed by a Gram Nyayalaya as a decree of the civil court and for this purpose, the Gram Nyayalaya shall have all the powers of a civil court.

(2) The Gram Nyayalaya shall not be bound by the procedure in respect of execution of a decree as provided in the Code of Civil Procedure, 1908 (5 of 1908) and it shall be guided by the principles of natural justice.

(3) A decree may be executed either by the Gram Nyayalaya which passed it or by the other Gram Nyayalaya to which it is sent for execution.

51. This Court in **Damini Vs. State of U.P. and Another (Application U/s 529 BNSS No. 4251 of 2025) 2026:AHC:78239** decided 9.4.2026 has held that the Gram Nayayalaya has requisite jurisdiction to decide the applications and cases relating to maintenance under Chapter IX of the Cr.P.C. (Sections 125 to 128) corresponding provisions under Chapter X of the BNSS 2023 (Sections 144 to 147)

52. The legal position regarding the procedure to be followed in proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, and the manner in which the orders passed by the Magistrate are to be enforced, has been considered by this Court in **Sagar v. State of U.P. and another, 2025:AHC:115579**. The Court, while examining Rule 6 of the Protection of Women from Domestic Violence Rules, 2006, observed as under:

“11. Rule 6 of the Domestic Violence Rules provides for the procedure how the application under Section 12 of the Act is required to be filed. Sub-section (5) of Rule 6 provides the manner in which the application under Section 12 is to be dealt with by the Magistrate, and also the enforcement of the orders passed under Section 12 of the Domestic Violence Act. It further provides that orders so passed by the Magistrate shall be enforced in the same manner laid down under Section 125 Cr.P.C.”

For reference, the provision in Rule 6 of the Protection of Women from Domestic Violence Rules, 2006 is delineated below:-

“Rule 6- Applications to the Magistrate.—

(1) Every application of the aggrieved person under section 12 shall be in Form II or as nearly as possible thereto.

(2) An aggrieved person may seek the assistance of the Protection Officer in preparing her application under sub-rule (1) and forwarding the same to the concerned Magistrate.

(3) In case the aggrieved person is illiterate, the Protection Officer shall read over the application and explain to her the contents thereof.

(4) The affidavit to be filed under sub-section (2) of section 23 shall be filed in Form III.

(5) The applications under section 12 shall be dealt with and the orders enforced in the same manner laid down under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974)."

53. For execution of a maintenance order passed under the Hindu Marriage Act/Hindu Adoptions And Maintenance Act or Code of Criminal Procedure/Bharatiya Nagarik Suraksha Sanhita, the matter may ultimately be taken up by the Revenue Authorities for recovery of the amount in accordance with the applicable provisions of the Revenue Code. However, where execution is sought under Section 125(3) CrPC read with Section 421 CrPC, the special procedure prescribed therein has to be followed. If the person against whom the maintenance order has been passed is ready and willing to pay the maintenance, he cannot be subjected to imprisonment merely on account of the default. In case of continued default, Section 125(3) CrPC/Section 144(3) BNSS, specifically provides for imprisonment for a term which may extend to one month for each month's default, or until payment, if sooner made.

54. Therefore, where the special procedure under Section 125(3) CrPC/Section 144(3) BNSS is invoked for enforcement of the maintenance order, the Revenue Authorities cannot, in substitution of or contrary to the said special provision, impose or direct civil imprisonment under the Revenue Code merely for recovery of the maintenance arrears. The power and mode of imprisonment must be traced to the specific statutory provision governing the execution of the maintenance order, and the general provisions relating to civil imprisonment under the Revenue Code cannot be invoked so as to circumvent or enlarge the specific limitation prescribed under Section 125(3) CrPC/Section 144(3) BNSS.

55. For default, a **warrant for arrest** shall be issued in place of **Non-bailable warrant**. Hon'ble the Supreme Court in **Poongadi and another (supra)** has held as under :-

"8. In view of the above, we are left in no doubt that the order passed by the High Court needs to be interfered with by us which we accordingly do. The order dated 21.04.2004 of the High Court is set aside and we now issue directions to the respondent to pay the entire arrears of maintenance due to the appellants commencing from the date of filing of the Maintenance Petition

(M.C.No.1/1993) i.e. 4.2.1993 within a period of six months and current maintenance commencing from the month of September, 2013 payable on or before 7th of October, 2013 and thereafter continue to pay the monthly maintenance on or before the 7th of each successive month. If the above order of this Court is not complied with by the Respondent, the learned Trial Court is directed to issue a warrant for the arrest of the respondent and ensure that the same is executed and the respondent taken into custody to suffer imprisonment as provided by Section 125(3) CrPC.”

emphasis supplied

56. In view of the aforesaid discussion, this Court is of the considered opinion, that the first proviso to Section 125(3) CrPC does not extinguish the substantive right of the revisionist to receive the maintenance awarded under the order dated 03.06.2023; however, in the absence of any application having been moved within the period prescribed therein, the coercive mode of recovery contemplated under Section 125(3) CrPC cannot be invoked in respect of the amount for which the prescribed period had already expired. The judgment of the Hon’ble Supreme Court in *Poongodi and another Vs. Thangavel* (supra) does not come in the aid of the revisionist, as in the said case the subsequent application was in continuation of an earlier application for recovery filed within limitation period, whereas in the present case no such application was filed within the prescribed period. Consequently, the learned Trial Court has committed no illegality in rejecting the application insofar as the coercive remedy under Section 125(3) CrPC/Section 144(3) BNSS is concerned.

57. Accordingly, the revision is **dismissed**.

58. However, the revisionist shall be at liberty to recover the arrears of maintenance for the period beyond limitation by way of a civil suit, in view of the law laid down by the Hon’ble Supreme Court in paragraph No. 125 of the judgment in *Rajnish Vs. Neha* (supra), which reads as follows:-

“125. The order or decree of maintenance may be enforced like a decree of a civil court, through the provisions which are available for enforcing a money decree, including civil detention, attachment of property, etc. as provided by various

provisions of the Code of Civil Procedure, more particularly Sections 51, 55, 58, 60 read with Order 21.”

59. Before parting, this Court deems it appropriate to observe that the relief granted by the Court would lose its efficacy and would remain merely illusory if the order/decreed is not enforced within a reasonable period. The very purpose of rendering justice is frustrated when the successful party is compelled to undergo prolonged execution proceedings. The executing court shall make every endeavor to ensure that the fruits of the decree/order reach to the successful party without undue delay.

60. Hon'ble Supreme Court in the Judgment **Periyammal vs. Rajamani (2025) 9 Supreme Court Cases 568** held that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail. The Relevant para of this judgment is delineated below:-

“76. The mandatory direction contained in para 42.12 of Rahul S. Shah [Rahul S. Shah v. Jinendra Kumar Gandhi, (2021) 6 SCC 418 : (2021) 3 SCC (Civ) 569] requiring the execution proceedings to be completed within six months from the date of filing, has been reiterated by this Court in its order in Bhoj Raj Garg v. Goyal Education & Welfare Society [Bhoj Raj Garg v. Goyal Education & Welfare Society, (2025) 9 SCC 618].

77. In view of the aforesaid, we direct all the High Courts across the country to call for the necessary information from their respective district judiciary as regards pendency of the execution petitions. Once the data is collected by each of the High Courts, the High Courts shall thereafter proceed to issue an administrative order or circular, directing their respective district judiciary to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise the Presiding Officer concerned would be answerable to the High Court on its administrative side. Once the entire data along with the figures of pendency and disposal thereafter, is collected by all the High Courts, the same shall be forwarded to the Registry of this Court with individual reports.”

61. In compliance of the aforesaid order of Hon'ble the Apex Court, the learned Registrar General of this Court issued a Circular to all the District and Sessions Judges, Principal Judges, Family Courts and Presiding Officers of Commercial Courts, MACTs, and LARRAs vide

C.L. No. 16/Admin G-II, dated 24.05.2025. The relevant portion of the circular is delineated below :-

“During the course of hearing aforesaid Civil Appeals, Hon’ble Supreme Court vide order dated 06.03.2025 (pdf copy enclosed), has revisited its observations made in Rahul S. Shah v. Jinendra Kumar Gandhi reported as (2021) 6 SCC 418 wherein guidelines and directions for conduct of execution proceedings were laid down. Hon’ble Supreme Court has further raised its concern over long and inordinate delay at the end of the Executing Courts across the country in deciding execution petitions and passed certain directions for expeditious disposal of execution petitions.

In this regard, while enclosing pdf copy of the order dated 06.03.2025 passed by Hon’ble Supreme Court and the data regarding district wise pendency of Execution cases in U.P. as on 31.03.2025, I am directed by Hon’ble Court to request you to ensure that the execution petitions pending in various courts be decided and disposed of within a period of six months without fail otherwise the concerned Presiding Officer would be answerable to this Court on its administrative side.”

Directions :

62. In case of non-compliance of order of allowance of maintenance:-

(1) Show cause notice be issued under Section 125(3) CrPC/144(3) BNSS, as to why the defaulter has not paid the allowance of maintenance as ordered by the competent Family Court.

(2) If no sufficient cause shown to comply the order of maintenance, then the trial court shall issue a warrant for levying the amount due in manner provided for levying fines as mentioned under Section 421 CrPC/461 BNSS and in case, no immovable property or movable property or insufficient property to comply with the order of allowance of maintenance for remaining unpaid allowance of maintenance, a warrant for the arrest shall be issued against the defaulter to sentence imprisonment for a term which may extend to one month for each month default or until payment if sooner made and the execution proceedings shall be completed within six months.

(3) The revisionist/claimant may seek the recovery of the maintenance amount due, beyond limitation period of one year, by adopting the procedure as money decree provided in paragraph No.125 of the

judgment passed by Hon'ble Supreme Court in **Rajnesh Vs. Neha (supra)**. But the claim, which is in limitation period, the process for recovery warrant can be adopted as provided in Section 125(3) CrPC/Section 144(3) BNSS.

63. The Registrar (Compliance) is directed to communicate this order to the District and Session Judge, Hamirpur and the Principal Judge, Family Court, Hamirpur for its compliance as well as to transmit a copy of this order to the Judicial Training and Research Institute, U.P. Lucknow (JTTRI), for the academic purposes of the judicial officers.

(Praveen Kumar Giri,J.)

October 16, 2026
DKS