

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of decision:24.08.2015.

Inderpal Singh

.....Petitioner

v.

Navneet Kaur

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Sarvpreet Gurna,Advocate for the petitioner

Jaswant Singh,J.(Oral)

Petitioner-husband has filed the instant petition under Section 482 Cr.PC seeking quashing of the order dated 27.3.2015 passed by learned SDJM,Nabha whereby conditional warrants of arrest were issued against him for non-payment of maintenance amount to respondent-wife in her application under Section 128 Cr.PC; further challenge is to the order dated 27.7.2015 passed by learned Additional Sessions Judge, Patiala whereby revision filed by the petitioner against order dated 27.3.2015 was dismissed.

Admittedly petitioner was in arrears of maintenance granted to respondent wife for the period from 26.10.2012 to 25.9.2013

(11 months) @ Rs.3000/- plus litigation expenses of Rs.2000/- , total Rs.35,000/-). Respondent wife filed an application under Section 128 Cr.PC for recovery of the said amount. Unsuccessful conditional warrants were issued against the petitioner from 28.11.2013 to 5.2.2015 and ultimately on 5.2.2015 petitioner appeared before learned SDJM,Nabha and moved an application for surrender. He suffered a statement that he was not ready to pay the arrears of maintenance. Accordingly, petitioner was ordered to be sent to civil imprisonment for a period of 30 days. Thereafter on 27.3.2015 the learned SDJM,Nabha is stated to have passed conditional warrants of arrest against petitioner to be executed by 2.5.2015 which was challenged by the petitioner in revision alleging therein that since he had already served 30 days' civil imprisonment in lieu of payment of Rs.35,000/- as maintenance w.e.f. 26.10.2012 to 25.9.2013 and for the same amount and period the conditional warrant of arrest could not be issued, as no fresh petition under Section 128 Cr.PC was filed by the respondent-wife.

The learned Additional Sessions Judge,Patiala vide order dated 27.7.2015(P-5) dismissed the revision petition of the petitioner by rightly holding that since subsequent arrears became due a fresh application need not be filed and conditional warrants could have been issued for the subsequent period as well. It was further noticed that the petitioner had wrongly stated that the conditional warrants were issued for the same period as the conditional warrants were deemed to have

been issued for the subsequent period.

At the time of hearing, learned counsel has not been able to
refute this factual and legal proposition of law.

Dismissed.

24.08.2015.
joshi

(Jaswant Singh)
Judge