

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1739 OF 2019

Pravin s/o Khemchand Bari **... PETITIONER**

VERSUS

Sagar s/o Pravin Bari & anr. **... RESPONDENTS**

.....
Mr. Shaikh Kayyum Najir, Advocate for petitioner
Mr. S.R. Patil, Advocate for respondents
.....

CORAM : R. G. AVACHAT, J.

DATE : 7th JANUARY, 2022

PER COURT :

Heard. The petitioner husband had challenged the order passed by the Family Court on his application Exh.1, in Petition being ER-232/2019. The petition was filed by the respondent wife for recovery of maintenance amount due for the period of little over 15 years. The petitioner, therefore, preferred application on the ground that the arrears of maintenance for a period of one year could only be recovered. The Family Court rejected the application, relying on the judgment of the Apex Court in case of **Poongodi & anr. Vs. Thangavel [(2013) 10 SCC 618]**.

2. Perused the order impugned herein. The Apex Court, in its judgment in Poongodi (supra) has observed :

“Said first proviso to S.125(3) does not extinguish or limit entitlement to arrears of maintenance – This proviso lays down procedure for recovery of maintenance by construing maintenance to be a levy of fine – In case of default in payment of maintenance, claimant cannot seek detention of defaulter in custody if application therefor is not moved within one year from due date.

As first proviso to S.125(3) does not create any bar nor fetter on claiming arrears of maintenance, appellant wife entitled to claim arrears maintenance – Hence, order passed by High Court set aside – Respondent husband directed to pay entire arrears of maintenance due from 4-2-1993 within ix months, and to pay current maintenance amount and also monthly maintenance before 7th of every month – Trial court directed to issue arrest warrant and take him into custody to suffer imprisonment if respondent husband failed to comply therewith.”

3. In view of the Apex Court mandate in the aforesaid case, there is no merit in the present Writ Petition. The same, therefore, fails. The petition thus stands rejected.

**(R. G. AVACHAT)
JUDGE**

fmp/-