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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision:- 15.07.2025

Sourav Sharma @ Saurav

...Petitioner

Versus

Deepika and another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Omkar Chauhan, Advocate
for the petitioner.

AMARJOT BHATTI, J.(Oral)

1. Petitioner Sourav Sharma @ Saurav-husband filed criminal revision against impugned order dated 07.03.2025 passed by learned Additional Principal Judge, Family Court, Gurugram, whereby defence of petitioner-husband has been struck off in petition no. MNT125/446/2022 filed by Deepika-wife alongwith her minor child - respondents.

2. Learned counsel for petitioner conceded that marriage of Sourav Sharma @ Saurav with Deepika took place on 07.12.2020. Out of this wedlock, one child Rakshit was born on 08.10.2021. On account of matrimonial dispute, litigation started between the parties. Respondent-wife filed petition under Section 125 Cr.P.C. (Annexure P-1). All allegations levelled against petitioner-husband were false and without any basis. He filed his reply to petition (Annexure P-2). Learned Court granted interim maintenance vide order dated 02.08.2023 at the rate of Rs. 8500/- per month in favour of respondents. Respondent-wife took several dates to lead her evidence. Finally, she stepped into the witness box on 03.08.2024 as PW-1. Present petitioner was directed to clear entire dues before next



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date of hearing, otherwise, his defence will be struck off. Matter was adjourned for 03.01.2025, then further adjourned to 07.03.2025, when said impugned order was passed.

Learned counsel for petitioner-husband raised the issue that aforesaid impugned order is not justified. There was no requirement to struck off the defence of petitioner-husband. In-fact, respondent-wife could have filed execution application for recovery of interim maintenance. To support this argument, he has relied upon the judgment of this High Court in “*Gurvinder Singh Versus Murti and ors.*” cited in Law Finder Doc Id #45654 : 1990(1) RCR(Criminal) 454, where it was observed that respondent-wife could have followed the proper procedure under Section 125(3) of Cr.P.C. for recovery of interim maintenance. On this point, he has also referred to another judgment of **Kerala High Court** in case titled “*Davis Versus Thomas*” cited in Law Finder Doc Id #135688 : 2008(1) RCR(Criminal) 752.

Therefore, it is submitted that impugned order dated 07.03.2025 is not justified and same is liable to be set aside by accepting present revision. Petitioner-husband may be given liberty to contest the said petition under Section 125 Cr.P.C.

3. Learned counsel for petitioner has placed on record all relevant documents for proper adjudication of present criminal revision. Notice to respondents is also dispensed with as matter in controversy can be decided even in their absence.

4. I have considered the facts and arguments advanced by learned counsel representing petitioner-husband. Admittedly, respondent No. 1-wife is granted interim maintenance @ Rs. 5,000/- per month and



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respondent No. 2-child is granted interim maintenance @ Rs. 3,500/- per month, thus, totalling to Rs. 8,500/- per month vide order dated 02.08.2023. He sought several dates from trial Court, even then there was no effort on his part to make payment of interim maintenance upto date. During the course of arguments, learned counsel claimed that petitioner-husband has paid Rs. 20,000/- till date and balance interim maintenance is more than Rs. 2,00,000/-. Even now learned counsel representing petitioner did not show any intention to make payment of balance maintenance amount, which is a huge amount. Therefore, under these compelled circumstances, learned Family Court, Gurugram passed impugned order dated 07.03.2025 vide which defence of petitioner-husband was struck off.

So far as remedy available to respondent-wife to seek recovery of maintenance allowance by filing execution is always there. Like in a civil case, different modes are available to effect the recovery including coercive method.

Gainful reference can be made to the judgment of **Supreme Court of India**, case titled “**Rajnish Versus Neha & Anr.**”, *Law Finder Doc Id #1760057 : 2021(2) SCC 324*, where it was observed that “*enforcement of the order of maintenance is the most challenging issue, which is encountered by the applicants. If maintenance is not paid in a timely manner, it defeats the very object of the social welfare legislation.*” It was further observed that “*petitions usually remain pending for months, if not years, which completely nullifies the object of the law.*” In this judgment, enforcement of orders of maintenance and striking of the defence for non-payment of maintenance is dealt with to facilitate speedy disposal of maintenance cases. Further, in para No. 128, it was observed as



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under :-

“128. Striking off the defence of the respondent is an order which ought to be passed in the last resort, if the Courts find default to be wilful and contumacious, particularly to a dependant unemployed wife, and minor children.”

During the pendency of petition under Section 125 Cr.P.C, petitioner-husband was defying the directions passed by learned Family Court, Gurugram to make payment of interim maintenance which was due since long. Ample opportunity was granted to him to make the payment upto date. Therefore, learned trial Court was fully justified in passing impugned order dated 07.03.2025 and same does not require any interference.

With this observation, criminal revision preferred by petitioner-husband Sourav Sharma @ Saurav against impugned order dated 07.03.2025 stands dismissed.

5. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

15.07.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No