



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-2725-2026 (O&M)

Date of decision: 25.03.2026

Buta Singh

...Petitioner(s)

Vs.

Jarnail Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Uday Singh Cheema, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India read with Section 115 of the Code of Civil Procedure, 1908 has been filed by the judgment debtor/defendant for setting aside the order dated 12.02.2026 (Annexure P-1) passed by the learned Executing Court; whereby application filed by the decree holder/respondent for sending the petitioner to civil imprisonment till realization of decretal amount, has been allowed.

2. It is *inter alia* submitted by learned counsel for the petitioner that it is not the case that the petitioner did not pay the decretal amount intentionally, but in actual fact, petitioner had no means to pay the decretal amount. It is submitted that the observation of learned Executing Court while passing the impugned order that petitioner was owner of Innova Car and had purchased Activa scooter, are uncalled for.



Learned Executing Court has failed to appreciate that Executing Court itself has sought a Report from the office of DTO, who had reported that Innova vehicle cannot be attached due to hypothecation under Cholamandalam Inv and Fin Co. Ltd., Kapurthala. Executing Court has also failed to appreciate that Innova vehicle had been purchased by the petitioner as far back as in the year 2012. Therefore, the very fact that the petitioner had purchased scooter before passing of the decree, would not by itself establish financial capacity of the petitioner to satisfy the decree

3. Learned counsel for the petitioner further submits that the learned Executing Court has wrongly conflated alleged non-availability / removal of vehicles for attachment with the statutory requirement of bad faith coupled with means to pay under Section 51 CPC. Even assuming, without admitting, that the petitioner did not produce the vehicles for attachment, such conduct by itself does not establish that the petitioner had, or has had since the date of decree, sufficient means to satisfy the decretal amount or a substantial part thereof. At the highest, it may give rise to an adverse inference regarding cooperation in execution; it cannot, without a fuller inquiry, substitute for the independent statutory satisfaction required before ordering arrest and detention in civil prison. The impugned order thus treats suspected obstruction of attachment as equivalent to proof of financial capacity and willful refusal, which is contrary to law.



4. It is lastly submitted that civil imprisonment is an exceptional mode of execution which can be resorted to as a last resort and only after compliance has been made with the strict safeguards contained in Section 51 CPC and Order XXI Rules 37-40 CPC. Extreme coercive measures of arrest and detention cannot be resorted to without demonstrating that such course had become necessary.

5. It is accordingly prayed that the present Revision Petition be allowed; and the impugned order dated 12.02.2026 (Annexure P-1) be set aside. It is further submitted that sometime may be granted to the petitioner to satisfy the decretal amount.

5. No other argument is raised on behalf of the petitioner. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of Id. counsel for the petitioner.

6. Brief facts of the case in chronological order are as follows: -

03.10.2022: Plaintiff/decreed holder had filed a Civil Suit dated 03.10.2022 for recovery of an amount of Rs.6,14,400/- from the petitioner.

03.12.2022: Petitioner was proceeded against ex parte vide order dated 03.12.2022.

23.01.2023: The said suit was decreed exparte by the Civil Judge (Junior Division), Kapurthala vide judgment and decree dated 23.01.2023 (Anexure P-10) for recovery of Rs.6,14,400/- with interest @ 12% p.a.



15.03.2023: On 15.03.2023, the respondent/decreed holder filed the present Execution Petition.

05.05.2023: Petitioner had filed Civil Appeal dated 05.05.2023 (Annexure P-12).

05.05.2023: The petitioner had also filed an application under Order IX Rule 13 read with Section 151 CPC on 05.05.2023 to set aside the exparte judgment and decree dated 23.01.2023.

17.08.2023: Reply to the said application filed under Order IX rule 13 read with Section 151 CPC was filed by the respondent on 17.08.2023.

18.08.2023: Vide order dated 18.08.2023 (Annexure P-11), application filed by the petitioner under Order IX Rule 13 read with Section 151 CPC was dismissed while holding that the petitioner had full knowledge/notice of the date of hearing and had sufficient time to appear and answer the plaintiff's claim. But he did not appear intentionally. It was also noted that petitioner had been served through munadi. Consequentially, the said application under Order IX Rule 13 read with Section CPC came to be dismissed vide order dated 18.08.2023.

21.11.2023: Vide order dated 21.11.2023 (Annexure P-14), objections dated 05.10.2023 filed by the petitioner were dismissed being non-maintainable.

21.03.2024: Thereafter, the petitioner had filed Civil Revision No. 538 of 2024 challenging the order dated 21.11.2023; which was dismissed by this Court vide order dated 21.03.2024 (Annexure P-2) by holding that



merely because Civil Appeal was pending, would constitute no ground for the Executing Court to stall execution proceedings especially when no stay had been granted by the Appellate Court

12.02.2026: Thereafter respondent/decreed holder had filed application for sending the petitioner/judgment debtor to civil imprisonment till realization of decretal amount. Vide impugned order dated 12.02.2026 (Annexure P-1), the said application of the decree holder has been allowed; and vide separate order of even date, decree holder was directed to pay subsistence allowance @ Rs.100 per day for initial 10 days for arrest of judgment debtor and for sending him to civil imprisonment.

7. Argument of the petitioner that petitioner had no means to pay the decretal amount, are belied from the facts as recorded by the learned Executing Court in the impugned order; to the effect that movable property of the judgment debtor being Innova car and Activa scooter were available for attachment. Accordingly, attachment warrants had been issued against movable property of the judgment debtor being Innova car and the scooter; but the same were received back unexecuted with the bailiff report that wife of the judgment debtor had started created scene and police help was required. Thereafter vide order dated 11.12.2025, the Executing Court had provided police help for execution of warrants of attachment but the same was received back unexecuted vide Report dated 30.01.2026 to the effect that judgment



debtor had removed the vehicles from his house and, therefore, they could not be attached.

8. From the above undisputed facts, the conduct of the petitioner is writ large on the record of the case. The malafide intent of the petitioner to obfuscate the execution of the decree is evident from the above said facts. Ld. Executing Court has also taken due note of the fact that plea of the petitioner that Innova Car has been gifted to him by niece who had paid the entire installments, was improbable as no reason was given for niece to gift costly car of Rs.20 lacs to her uncle. It is also undisputed that petitioner has purchased Activa Scooter costing around Rs.1 lac in the year 2022; thereby demonstrating that petitioner has the means. Thus, statutory requirement of Section 51 CPC stands satisfied.

9. It is also to be appreciated that the appeal under execution is of the year 2023 and despite passage of 3 years, decree holder is unable to enjoy the fruits of the decree. The record also reveals that petitioner has failed to file any Affidavit to support his reply to the effect that he never disposed of any property after passing of the decree or that he has no sufficient means to satisfy the decree.

10. The relevant observations of the learned Executing Court in impugned order dated 12.02.2026 are as follows: -

“..... In view of discussion made above it is amply clear on record that JD is earning income since long and he purchased Innova car in the year 2012, which is still in his name and recently purchased Activa Scooter in the year 2022



just before passing of the decree, which he removed from his house to save them from getting attached. Therefore, it is clear that the JD has had means to pay the decretal amount, but did not pay the same intentionally. His nonpayment of decretal amount is malafide and dishonest. I have considered the explanation given by the JD to the show cause issued by this Court as to why he should not be sent to civil imprisonment, but his explanation is not satisfactory as discussed above. Hence, his explanation in the shape of reply is hereby rejected. This court is satisfied that JD has intentionally and malafidely avoided and neglected to pay the decretal amount despite having means to pay and he is liable to be sent to civil imprisonment. Application is allowed accordingly.”

11. Learned counsel for the petitioner is unable to controvert or dispute the above said facts and findings.
12. In view of the above, I find no ground is made out to interfere in the impugned order dated 12.02.2026 (Annexure P-1). Present Revision Petition stands **dismissed**.
13. Pending application(s) if any also stand(s) disposed of.

25.03.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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