

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 738 of 2026

[REDACTED]

[REDACTED]

Versus

1. [REDACTED]
 [REDACTED]
 [REDACTED]

2. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

..... Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :Mr. Rishav Kumar, Advocate

For the O.P. No.1 : Mr. D.C. Mishra, Advocate

04/ 15.10.2026: Heard learned counsel for the petitioner and learned counsel for the O.P. No.1.

2. This criminal revision has been preferred against the order dated 16.04.2026 passed by the learned Principal Judge, Family Court, Dumka in O.M. (Enforcement) Case No. 69 of 2021, arising out Original Maintenance Case No. 69 of 2021, whereby the learned court has been pleased to reject the petition filed by the petitioner seeking his release from civil imprisonment imposed on account of non-payment of monthly maintenance to the O.P. No.1-wife, pending in the Court of learned Principal Judge, Family Court, Dumka.

3. Learned counsel for the petitioner submits that Opposite Party No.1 wife filed an application under Section 125 of Cr.P.C. claiming maintenance of Rs. 8,000/- per month for herself and Rs. 3,000/- per month for her minor daughter, name [REDACTED] Opposite Party No. 2. He submits that it is stated that she is the legally wedded wife of the petitioner-husband and that their marriage was solemnized on 30.05.2017 and out of the said wedlock, a child was born, after which she was subjected to physical and mental torture by the Petitioner-husband. He submits that said application was registered as Original Maintenance Case No. 69 of 2021 and, vide order dated 31.03.2023, the learned Principal Judge, Family Court, Dumka, directed the Petitioner-husband to pay maintenance of Rs. 5,000/- per month to Opposite Party No. 1 and Rs. 3,000/-per month to Opposite

Party No. 2 from the date of institution of the case, i.e., 31.08.2021. He next submits that thereafter the Opposite Party herein has filed an enforcement petition on 15.05.2023 for execution of the order dated 31.03.2023 passed in Original Maintenance Case No. 69 of 2021. The said petition was registered as O.M. (Enforcement) Case No. 69 of 2021. He submits that allegations are made that arrears are pending and petitioner has not paid the arrear for that order has been passed by the learned court.

4. He submits that the petitioner was arrested and he was produced before the learned Court on 27.04.2024 and thereafter repeatedly kept in custody through successive orders for periods of 30 days. He submits that several orders between 21.06.2026 and 17.03.2025 did not specify the particular month or period of default for which the petitioner was being kept in custody. . He submits that on 29.10.2024 the petitioner was sent to jail for 30 days for default relating to September, 2021 and again he was sent to jail on 09.07.2025 for the very same default. He submits that similarly the petitioner was sent to jail on 4.10.2025 for default relating to December, 2021 and again on 03.11.2025 for the same default. He next submit that petitioner filed an application on 16.04.2026 seeking his release from judicial custody on the grounds of his inability to pay the maintenance amount and prolonged illegal detention. However, the learned Court, vide order dated 16.04.2026, rejected the said application on the very same day and directed that the Petitioner be sent to imprisonment for default in payment of maintenance dues for the month of March, 2026.

5. Learned counsel for the petitioner submits that 23 orders have been passed by the learned court and every time custody was extended for 30 days and petitioner has not been released for a single day which is against the provision of section 125(3) of Cr.P.C. He submits that successive petition can be filed by wife for breach or non compliance with the order and to buttress this argument he relied in the case of **"Shahada Khatoon and others Vs. Amjad Ali and Others"** reported in **(1999) 5 SCC 672**. He refers to para 1 of the said judgment which is quoted hereinbelow:-

"The short question that arises for consideration is whether the learned single Judge of the Patna High Court correctly interpreted Sub-section (3) of Section 125 of the Cr.P.C. by directing that the Magistrate can only sentence for a period of one month or until payment, if sooner made. The learned Counsel for the appellants contends that the liability of the husband arising out of an order passed under Section 125 to make payment of

maintenance is a continuing one and on account of non-payment there has been a breach of the order and therefore the Magistrate would be entitled to impose sentence on such a person continuing him in custody until payment is made. We are unable to accept this contention of the learned Counsel for the appellants. The language of Sub-section (3) of Section 125 is quite clear and it circumscribes the power of the Magistrate to impose imprisonment for a term which may extend to one month or until the payment, if sooner made. This power of the Magistrate cannot be enlarged and therefore, the only remedy would be after expiry of one month, for breach of non-compliance of the order of the Magistrate the wife can approach again to the Magistrate for similar relief. By no stretch of imagination the Magistrate can be permitted to impose sentence for more than one month. In that view of the matter the High Court was fully justified in passing the impugned order and we see no infirmity in the said order to be interfered with by this Court. The appeal accordingly fails and is dismissed."

6. He also relied in the case of **"Ramdhani Sah Vs. The State of Jharkhand and Another"** (W.P.(Cr.) No. 645 of 2015). Relying on the said judgment he submits that the Coordinate Bench of this Court relying on judgment in the case of **"Laljee Yadav Vs. the State of Bihar & others"** reported in **2011(4) PLJR 248** has directed the petitioner to be released forthwith. On these grounds, he submits that the petitioner may kindly be released from jail.

7. Learned counsel for the O.P. No.1 submits that wife has not been paid any farthing and in view of that the learned court has rightly passed the order. He further submits that petitioner may be directed to pay certain amount.

8. In reply, learned counsel for the petitioner submits that after release from custody, the petitioner will try to pay certain maintenance amount.

9. It is an admitted position that petitioner and O.P. No.1 are husband and wife respectively and some dispute arose between them for that wife has filed petition for maintenance being Original Maintenance Case No. 69 of 2021.

10. Sub-section 3 of Section 125 of Cr.P.C stipulates 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's [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] [Substituted by Act 50 of 2001, Section 2 for "allowance" (w.e.f. 24-9-2001).] 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. On perusal of above provision, it transpires that only for 30 days one can be detained for non payment of the maintenance amount and for every breach of the order same can be imposed that too within the statutory period of one year and if the husband offers to maintain his wife and the wife refused to live with him the learned court is required to consider the grounds of refusal stated by the wife.

12. In view of above the trial court cannot continuously imprison a husband under Section 125(3) of the Cr.P.C for nonpayment of monthly maintenance without regard to the statutory limits and the nature of the remedy. Imprisonment under section 125(3) Cr.P.C is a mode of enforcement of a maintenance order and does not extinguish the underlying liability, but successive sentences cannot be imposed for the same default, and the maximum imprisonment for non-compliance with a maintenance order is one month per default.

13. Imprisonment under Section 125(3) Cr.P.C. is a coercive remedy to enforce compliance with maintenance orders, not a discharge of the liability itself. A second imprisonment sentence for the same default of non-payment of maintenance is not legally sustainable.

14. The maximum period of imprisonment for non-compliance with a maintenance order under Section 125(3) is one month; a longer sentence is impermissible. The liability to pay maintenance is continuous, and successive applications for enforcement are permissible, but each must be for a distinct default. Section 125(3) serves as a method of enforcing compliance

with maintenance orders and does not extinguish the underlying liability. The court in the revision case regarding enforcement of maintenance emphasized that the liability to pay maintenance is ongoing and can be enforced through successive applications without limitation on the total amount recoverable.

15. In view of above facts, reasons and analysis the Court finds that against the statutory provision under section 125 (3) of Cr.P.C. the maximum imprisonment imposed under the provisions of law under section 125 (3) Cr.P.C is one month for one default.

16. In the instant case the learned court has went on extending the custody for 30 days by way of 23 orders and hence the impugned order dated 16.04.2026 is set aside. The petitioner is ordered to be released forthwith.

17. It has been pointed out by the learned counsel for the petitioner that after release from custody the petitioner will try to pay maintenance amount.

18. With the above observations, this criminal revision is allowed and disposed of.

(**Sanjay Kumar Dwivedi, J.**)

Dt. 15.10.2026

Satyarthi/A.F.R