
(1985) 05 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 83 of 1984

Sant Kaur

APPELLANT

Vs

Sadhu Singh

RESPONDENT

Date of Decision : 10-05-1985

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (1985) 05 P&H CK 0018

Hon'ble Judges : K.P.S. Sandhu, J

Bench : Single Bench

Advocate : Amarjit Markan and Mr. Arikant Jain, for the Appellant; G.C. Garg, for the Respondent

Final Decision : Allowed

Judgement

K.P.S. Sandhu, J.—This is a revision petition filed by Shrimati Sant Kaur against her husband Sadhu Singh Respondent.

2. The facts which gave rise to this petition are as under. Petitioner Sant Kaur filed a petition u/s 125 of the Code of Criminal Procedure for the grant of maintenance to her. The trial Magistrate allowed maintenance to her at the rate of Rs 70 per mensem Aggrieved by the order of the the trial Magistrate, the Respondent filed a revision petition in the Court of Session. The learned Additional Sessions Judge Sangrur, allowed revision petition of the Respondent as he came to a finding that the Petitioner was not entitled to maintenance. Petitioner Sant Kaur then came up to the High Court in revision against the order of the Additional Sessions Judge. The High Court allowed the revision petition and restored the order of the learned Magistrate allowing maintenance to the Petitioner at the rate of Rs. 70 per mensem.

3. The Petitioner filed an execution application for the recovery of Rs. 5,180 as arrears of maintenance from the Respondent The learned Sub Divisional Judicial Magistrate, Malerkotla, vide his order dated 23rd May, 1983, ordered the

attachment of the pension of the Respondent in lieu of the arrears of maintenance. The Petitioner went up in revision in the Court of Session. The learned Sessions Judge, Sangrur, allowed the revision and came to a finding that in view of Section 11 of the Pensions Act, 1871, the pension of the Petitioner was not attachable. Hence, this revision.

4. Section 11 of the Pensions Act, 1871, reads as under:

11. Exemption of pension from attachment-No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a companionate allowance, and no money due or to become due on account of any such pension or allowance, shall be liable to seizure, attachment or sequestration by process of any Court at the instance of a creditor, for, any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

According to the Shorter Oxford English Dictionary, Vol 1, the word "creditor" means one giving credit for money or goods or one to whom a debt is owing I do not think that the Petitioner comes within the definition of "creditor". To my mind, maintenance allowance granted to the Petitioner cannot be considered a debt. Consequently, the provisions of Section 11 of the Pensions Act are not attracted to the present case. Resultantly, this revision petition is allowed. The order of the learned Sessions Judge, Sangrur, dated 1st October, 1983, is set aside and that of the Sub Divisional Judicial Magistrate, Malerkotla, dated 23rd May, 1983, is restored.