

(1991) 01 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 911-M of 1990

Sarwan Kumar

APPELLANT

Vs

Prem Lata @ Premo

RESPONDENT

Date of Decision : 15-01-1991

Acts Referred:

Citation : (1991) 1 AICLR 381 : (1991) 2 CurLJ 526

Hon'ble Judges : G.S.Chahal, J

Advocate : Sh. V.B. Aggarwal, Advocates for appearing Parties

Judgement

G.S. Chahal, J.

1. Smt. Prem Lata alias Premo, respondent was granted interim maintenance in proceedings under section 125 of the Code of Criminal Procedure, vide order of the learned Judicial Magistrate I Class, Kurukshetra dated 14/1987. The amount was fixed at Rs. 500/ p.m., but, vide a subsequent order dated 28/5/87, this amount was reduced to Rs. 350/ p.m. The petitioner husband having not paid the amount, proceedings for recovery were started by the respondent. The petitioner is employed as a waterman in the Animal Husbandry Department, Govt. of Haryana. His salary was attached. That amount is still being recovered. The petitioner also has savings in his GPF account. Communication was sent from the Court of the Judicial Magistrate to the Director of the Department for attaching a sum of Rs. 6,650/ from the GPF account of the petitioner. The petitioner approached the Court of the learned Magistrate for setting aside the attachment of his GPF account, but this application was dismissed vide order Annexure P8.

2. Section 3 of the Provident Fund Act, 1925 provides as follows :

"Sec. 3 Protection of compulsory deposits.(1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any `Civil, Revenue or Criminal Court in respect of any debt or liability

incurred by the subscriber or depositor, and neither the Official Assignee nor any Receiver appointed under the Provincial Insolvency Act, 1920 shall be entitled to or have any claim on any such compulsory deposit."

This provision protects the savings in the GPF account of an employee from any attachment by any decree or order of any Civil, Revenue or Criminal Court. In view of this clear provision of law, the learned Magistrate could not have ordered the withholding of any amount from the GPF account, as such an order will amount to attachment. The order of the learned Magistrate in not releasing the attached amount is, thus, not justified and I hereby accept this criminal miscellaneous and set aside the impugned order. The amount in question shall stand released from attachment.

JUDGMENT accordingly.