(7) The offence is only described to be deemed a notional matter and the same can happen only after all the conditions in the proviso are also met.

(8) Dishonouring of the cheque was only a part of cause of action and the offence was completed only when the petitioner-Company failed to discharge its liability to the creditors (the complainant herein). For discharging the debt, the petitioners had to find out their creditors and since the creditor was its office at Pehowa, the offence was completed at that place and in this situation, the Court at Kurukshetra had the territorial jurisdiction to try the matter. No ground for quashing the impugned complaint and the subsequent proceedings is made out. All other pleas will be available to the petitioners at the time of trial. The liability of Petitioners other than M. M. Malik can be urged before the trial Magistrate. All the three criminal miscellaneous (enumerated above) are hereby dismissed.

(9) The parties, through their learned counsel, are directed to appear before the trial Magistrate on the 12th day of March, 1991.

_____

S.C.K.

Before : *J. S. Sekhon, J.*

OM PARKASH,—*Petitioner.*

versus

VIDHYA DEVI,—*Respondents.*

Criminal Misc. No. 2176-M of 1990.

21st March, 1991.

Code of Criminal Procedure 1973 (II of 1974)—Ss. 125, 421, 482—Maintenance allowance awarded in favour of wife—Husband's failure to pay—Wife starting execution proceedings—Husband refusing to accept service—Conditional warrants of arrest of husband ordered against husband—Magistrate failing to resort to coercive methods—Such procedure—Illegal.

Held, that if any person fails to comply with the order of the Magistrate to pay maintenance allowance without sufficient cause, such Magistrate may issue warrant for levying the amount due in

the manner provided for levying fines. There are two methods for levying fine and the Court has been empowered to opt for either of these two modes or both at one and the same time. One of these modes provided under sub-S. (1) (a) is to issue a warrant for levy of the amount by attachment and sale of moveable property belonging to the offender and the other being issuance of a warrant to the Collector authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both. In the case in hand, the trial Court had not resorted to any of these coercive measures for the recovery of the arrears of maintenance allowance although it is mentioned in the impugned order of the trial Court that the husband is man of means. Thus, legally the impugned order of the trial Court being not sustainable calls for quashment.

(Paras 3 & 4)

Petition under section 482 Cr. P.C. praying that the impugned order dated 25th January, 1990 (Annexure P-1) u/s 125(3) passed by Learned Addl. Chief Judicial Magistrate, Kurukshetra may kindly be quashed in the interest of justice.

It is further prayed that during the pendency of the petition, the operation of the impugned order (Annexure P-1) dated 25th January, 1990 may kindly be ordered to be stayed in the interest of justice, equity and fair play.

V. B. Aggarwal, Advocate, *for the Petitioner.*

Akash Jain, Advocate, *for the Respondent.*

JUDGMENT

(1) In proceedings under section 125 of the Code of Criminal Procedure, 1973, Smt. Vidya Devi was awarded maintenance allowance at the rate of Rs. 150 per month for herself and Rs. 100 per month for her minor daughter against her husband Om Parkash from the date of application, i.e., 9th May, 1984. It is not disputed that the order of the Judicial Magistrate has become final as the revision petition filed against it has since been dismissed by the Additional Sessions Judge and petition under section 482 of the Code was also dismissed by the High Court in 4919-M of 1989. Om Parkash, husband or the father, as the case may be, failed to pay the amount of maintenance allowance to his wife and daughter which resulted in taking execution proceedings by Vidya Devi respondent against him. On 25th January, 1990, Om Parkash, the husband failed to turn up before the Court of the Additional