



Cri. M.A. No. 121/2025
Karuna Vs. Rajkumar
CNR- MHA090013342025

ORDER AT EXH.9
(Passed on- 01.12.2025)

This is an application filed by non-applicant(NA) under sec.127 of Cr.P.C. for alteration/cancellation of maintenance allowance.

2. Read the application and overleaf say of the applicant.
3. It is submitted by the NA that, applicant has sought maintenance for 72 months which is not allowed under provisions of Cr.P.C. Applicant cannot filed recovery of maintenance for more than period of 12 months. Further, applicant No.2 has already attend the age of majority on date of filing of the application and thus, the same is also not maintainable. Thus, applicant No.1 may kindly be deleted from recovery proceeding and period of recovery of maintenance be reduced to 12 months for applicant No.1 only.
4. On contrary, applicant opposed the application contending that, present application is filed to delay the proceeding and applicant No.2 is entitled for maintenance for the period before altering his majority and thus, application be rejected.
5. Ld. Adv. for the NA argued that, u/s 125(3) of Cr.P.C., only for the period of 12 months, maintenance can be claimed when it becomes due. The proceeding cannot be filed for recovery for 72 months. Further, applicant No.2 has also attend majority and thus, application be allowed.
6. On contrary, Ld. Adv. for the applicant argued that, recovery

of maintainable can be filed for any period of time from its due. Though, applicant No.2 has attend the majority, arrears pending before attaining majority are recoverable and thus, application be rejected.

7. Perusal of Exh.1 shows that, applicant has filed the proceeding on the basis of order dated 27.01.2014, wherein Rs.1000/- was allowed as a maintenance to both the applicants each. From 15.05.2019 to 15.05.2025, NA has not cleared the arrears amounting to Rs.1,44,000/-.

8. Sec.125(3) of Cr.PC. provides 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*". The provision does not bar filing of application for recovery of maintenance prior to the period for more than 12 months of its becoming due. The provision only forbids, issuance of warrant for recovery of maintenance prior to the period for more than 12 months of its becoming due. Further, in Poongodi Vs. Thangavel (2013) 10 SCC 618, Hon'ble Supreme Court has also held that, the provision only forbids, issuance of warrant for recovery of maintenance prior to the period for more than 12 months of its becoming due, and not filing of the application for recovery of maintenance prior to the period for more than 12 months of its becoming due. Thus, the application for recovery of arrears is maintainable.

9. So far as the submission and argument regarding deleting name of applicant No.1 is concerned, birth certificate of applicant No.2 shows his date of birth as 06.05.2007, which shows that, he has attend

the majority. Present application for recovery is filed on 05.06.2025 for recovery of arrears pending from 15.05.2019. Thus, applicant No.2 is also entitled for recovery of arrears of his maintenance till his attaining the majority.

10. Hence, considering sec.125(3) of Cr.P.C. and Poongodi (supra), I am of view that, application for recovery of maintenance for more than period of 12 months is maintainable and applicant No.2 is entitled for recovery of arrears of his maintenance till his attaining the majority. Thus, following is the order.

ORDER

- 1) Application is rejected.
- 2) Applicant No.2 is entitled for recovery of arrears of his maintenance till his attaining the majority only.

Date- 01.12.2025

(R. R. PAKADE)
JMFC, Court No.2,
Murtizapur.

CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	S. R. Adhau
Name of the Court	Jt. Civil Judge (J.D.) & J.M.F.C., Murtizapur.
Date of Order/Judgment	01.12.2025
Order/Judgment Signed by the P.O. On	01.12.2025
Judgment/Order uploaded on	03.12.2025