

Misc exe Case 34 of 2022

CIS- 74 of 2022

Dated: 07.08.2025

Today is fixed for hearing.

The present application has been filed by the petitioner wife, Smt. Rina Mukherjee, under Section 125(3) CrPC for execution of the maintenance order previously passed by this Court on 26.09.2022, wherein the opposite party, Shri Ajay Kumar Mukherjee, was directed to pay monthly maintenance of ₹7,000/- to the petitioner.

It is submitted that the opposite party has failed to comply with the order and has wilfully defaulted in payment of maintenance for a substantial period, thereby accumulating arrears amounting to ₹1,40,000/-. Despite repeated opportunities and issuance of warrant of arrest, the opposite party has deliberately evaded execution proceedings.

The petitioner now seeks enforcement of the said arrears by way of attachment of the pension of the opposite party, which, as per documents on record, is being regularly disbursed through the State Bank of India, Adra Branch.

The petitioner has produced the following documents in support of her claim:

- Pension Payment Order (PPO No. 07040400316) dated 01.02.2016 issued by South Eastern Railway, which establishes that the opposite party receives pension through SBI, Adra.
- Pension Slip (January 2023) issued by State Bank of India reflecting:
 - Gross pension: ₹35,880/-
 - Deductions (Commutation): ₹10,400/-
 - Net pension received: ₹25,480/-

These documents clearly establish the financial capacity of the opposite party to comply with the maintenance order.

Section 125(3) CrPC empowers the Magistrate to enforce the maintenance order by issuance of a warrant for levying the amount due in the manner provided for levying fines. Where the person liable refuses or neglects to pay despite means, coercive steps including warrant of arrest and attachment of property may be undertaken.

While pension is generally protected under Section 60(1)(g) CPC, an exception is made for liabilities arising out of maintenance orders, which are deemed enforceable against even exempted assets:

Proviso to Section 60(1)(g), CPC: *"Provided that where any such salary or allowance is liable to attachment by virtue of any law for the time being in force relating to maintenance of wives, children and parents, such attachment shall be permissible."*

In *Kirtikant D. Vadodaria v. State of Gujarat*, the Supreme Court correctly established that maintenance is not merely a statutory right but a fundamental natural obligation, emphasizing its social and moral foundation. This principle is crucial to understanding the robust enforcement mechanisms that courts employ. The decisions in *Chintaman v. Dhulibai and Union of India v. M.S. Gawas* both correctly confirm that this natural obligation takes precedence over other legal protections, such as the one provided by Section 60 of the Civil

Procedure Code, which generally protects pensions from attachment. These rulings, therefore, permit the attachment of a person's pension to satisfy a maintenance decree, ensuring that individuals cannot evade their responsibility to their dependents. This is further reinforced by *Haryana Urban Development Authority v. Smt. Manju*, where the Supreme Court affirmed that courts have the power to employ coercive measures, including imprisonment, under Section 125(3) of the CrPC to enforce maintenance orders against those who have the means to pay but refuse to do so. Taken together, these judgments form a comprehensive legal framework that prioritizes the welfare of dependents and ensures the effective enforcement of maintenance orders.

The opposite party has the financial means to comply with the order of this Court, yet he has persistently evaded both appearance and payment obligations, thereby defaulting wilfully. The evasion of arrest further reflects his attempt to circumvent judicial authority.

It is therefore just and necessary that recovery be made from his pension, which is a regular and identifiable source of income. The exemption under Section 60 CPC does not apply in this case, as the arrears are arising from an order of maintenance under Section 125 CrPC.

In view of the above discussion and considering the consistent default, the following directions are issued:

The prayer for attachment of the pension of Shri Ajay Kumar Mukherjee is allowed. The State Bank of India, Adra Branch, being the pension disbursing authority, is hereby directed to deduct ₹7,000/- per month from the pension of the opposite party and remit the same directly to the petitioner, Smt. Rina Mukherjee, toward satisfaction of monthly maintenance dues, until further orders. In addition, SBI, Adra, shall also deduct Rs.1000/- in suitable instalments toward satisfaction of accumulated arrears of maintenance. The arrears shall be cleared in monthly instalments of Rs.1000/-, over and above the current maintenance amount.

A copy of this order be forwarded to, The Branch Manager, State Bank of India, Adra Branch, for immediate compliance. The Protection Officer for monitoring and assistance in enforcement.

Failure of the pension disbursing authority to comply with the directions shall attract liability under Section 421 CrPC and relevant provisions of the Contempt of Courts Act, 1971.

To 07.10.2025 compliance report.

Let a copy of this order be supplied to the petitioner for free of cost.

D/C by me

JM1

Judicial Magistrate 1st Court
Raghunathpur, Purulia