

**Govind Singh Vs. Sunita Devi**

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**SooperKanoon Citation :** [sooperkanoon.com/510864](http://sooperkanoon.com/510864)

**Court :** Madhya Pradesh

**Decided On :** Jan-02-2001

**Reported in :** I(2001)DMC490

**Judge :** N.K. Jain, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125 and 482

**Appeal No. :** M. Cr. C. No. 4941 of 2000

**Appellant :** Govind Singh

**Respondent :** Sunita Devi

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** Darshan Singh, Adv.

**Disposition :** Petition dismissed

**Judgement :**

**N.K. Jain, J.**

1. Heard Mr. Darshan Singh, learned Counsel for applicant.

The order impugned is rendered in revision by the Sessions Court in affirmance of the order passed by the Magistrate under Section 125, Cr.P.C. granting

maintenance to respondents - wife and minor son of the applicant.

2. It appears that earlier also an order of maintenance was passed in favour of respondent No. 1, the wife of the applicant. However, during execution proceedings some compromise was arrived at between the husband and wife and the wife started living with the husband. However, after a lapse of about 3 years, she renewed her prayer alleging that the husband has again neglected to maintain her and minor child. The only objection raised by the applicant is that in view of the first order of maintenance, the second application did not lie in law. He has placed reliance on a Supreme Court decision in *Mahua v. Biswas*, 1998 (1) MPWN 186.

3. The Apex Court in the aforesaid decision held :

'The matter can be viewed from either angle. It can be viewed that there was a genuine effort by wife to rehabilitate herself in her matrimonial home but in vain. The previous orders of maintenance in a manner of speaking could at best be taken to have been suspended but not wiped out altogether. The other view can be that the maintenance order stood exhausted and thus she be left to fight a new litigation on a fresh cause of action. Out of the two courses, we would prefer to adopt the first one, for if we were to resort to the second option, it would lead to injustice.'

4. It will be thus seen that the second application by the wife was not barred. In any case either the earlier order of maintenance stood revived and could also be modified by the Magistrate to suit the present needs of the wife and the child. In alternative, the wife could renew her prayer on fresh cause of action and make fresh application for maintenance. The orders impugned, therefore, do not suffer with any illegality calling for any interference by this Court under Section 482, Cr.P.C.

5. This petition thus fails and is dismissed.