

1999 MHLJ SC 3 290 . 1999 SCC CRI 1029 . 1999 SUPREME 9 396 . 1999 MPLJ SC 2 448 . 1999 AIR SC 4880 . 1999 SCC 5 672 . 1999 BOMCR SC SUPP 1 978 . 1999 JT 10 260 . 2000 ALD CRI 1 305 . 1999 CRILJ 5060 . 2000 DMC SC 1 313 . 2000 KLT SC 1 696 . 2000 MPHT 2 1 . 1999 OLR SC 2 333 . 2000 KERLT 1 696 . 1999 MHLJ 3 290 . 1999 OLR 2 333 . 1999 MPLJ 2 448 . 1999 JT SC 10 260 . 1999 AIR SCW 4880 .

**Shahada Khatoon And Others v. Amjad Ali And Others**

Supreme Court Of India (Apr 7, 1999)

**CASE NO.**

Criminal Appeal No. 83 of 1996, decided on April 7, 1999

**ADVOCATES****JUDGES**

G.B Pattanaik

M.B Shah, JJ.

**Summary**

1. The appeal fails and is dismissed.

**JUDGMENT**

The short question that arises for consideration is whether the learned Single Judge of the Patna High Court correctly interpreted sub-section (3) of Section 125 of CrPC by directing that the Magistrate can only sentence for a period of one month or until payment, if sooner made. The learned counsel for the appellants contends that the liability of the husband arising out of an order passed under Section 125 to make payment of maintenance is a continuing one and on account of non-payment there has been a breach of the order and therefore the Magistrate would be entitled to impose sentence on such a person continuing him in custody until payment is made. We are unable to accept this contention of the learned counsel for the appellants. The language of sub-section (3) of Section 125 is quite clear and it

circumscribes the power of the Magistrate to impose imprisonment for a term which may extend to one month or until the payment, if sooner made. This power of the Magistrate cannot be enlarged and therefore the only remedy would be after expiry of one month. For breach or non-compliance with the order of the Magistrate the wife can approach the Magistrate again for similar relief. By no stretch of imagination can the Magistrate be permitted to impose sentence for more than one month. In that view of the matter the High Court was fully justified in passing the impugned order and we see no infirmity in the said order to be interfered with by this Court. The appeal accordingly fails and is dismissed.