

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Petition No. 637 of 2011

Order:

This Criminal Petition, under Section 482 Cr.P.C., is directed against the docket order, dated 29.12.2010, passed in CrI.MP No. 736 of 2009 in MC No.36 of 2004 by the Additional Munsif Magistrate, Chirala, Prakasam District, whereby and whereunder the learned Magistrate has sentenced the petitioner herein to undergo SI for one month for his default in paying the arrears of maintenance amount to the respondents 2 to 6 herein.

2. The petitioner is the husband and the respondents 2 to 6 are the wife and children. It appears that the amount of maintenance was awarded to the respondents 2 to 6 – wife and children by the trial Court and the petitioner – husband has failed to pay the maintenance amount to them. Hence, the respondents 2 to 6 filed CrI.MP No.736 of 2009 in MC No.36 of 2004, under Section 127 Cr.P.C., for realization of the arrears of maintenance amount and the trial Court issued arrest warrant against the petitioner herein. On 29.12.2010, when the petitioner - husband was arrested and produced before the trial Court, he has offered to pay an amount of Rs.15,000/- out of the arrears of maintenance amount to the respondents, but they refused to accept the same on the ground that he will not pay the balance of arrears amount subsequently, therefore, the petitioner - husband was sentenced to undergo SI for one month for deliberately not paying the maintenance amount as awarded by the trial Court to the respondents 2 to 6 – wife and children. Aggrieved by the said orders, the present Criminal Petition is filed.

3. The contention of the learned counsel for the petitioner is that, if some time is granted to the petitioner he is prepared to pay the arrears

of maintenance amount to the respondents and, therefore, the impugned order may be set aside.

4. The petitioner – husband is obliged to pay the arrears of maintenance amount without any default and violation of the orders passed by the trial Court will entail his imprisonment. However, since the learned counsel for the petitioner submits that if sometime is given to pay the arrears of maintenance amount, the petitioner will clear off the same,

I deem it appropriate to dispose of the Criminal Petition with the following directions.

5. The impugned docket order is set aside subject to condition of the petitioner herein paying the entire arrears of maintenance amount to the respondents 2 to 6 herein till date on or before 30th September 2015, failing which the impugned order of the learned Magistrate sentencing the petitioner to imprisonment shall be enforced.

6. Accordingly, the Criminal Petition is disposed of.

7. As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

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M.S.K. JAISWAL, J.

Date: 04.09.2015

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