

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 2874 of 2016

ORDER :

The present Criminal petition is filed under Section 482 read with 70 (2) Cr.P.C. seeking to recall the non-bailable warrant issued against the petitioner on 11.01.2016 in CrI.M.P.No.1149 of 2015 in M.C.No.52 of 2015 on the file of the Judge, Family Court-cum-IV Additional District Judge, Vijayawada.

A perusal of the material on record disclose that respondent Nos.2 and 3 herein filed M.C.No.52 of 2015 on the file of the Judge, Family Court-cum-IV Additional District Judge, Vijayawada under Section 125 Cr.P.C. claiming maintenance @ Rs.15,000/- per month to the second respondent herein and Rs.10,000/- to the third respondent herein. An ex parte order came to be passed on 11.08.2015 directing the petitioner herein to pay maintenance at Rs.7,500/- per month to the second respondent and Rs.10,000/- to the third respondent herein from the date of filing of the petition. Thereafter, a petition came to be filed seeking arrears of maintenance. As the petitioner failed to appear before the Court, the learned trial Judge issued non-bailable warrant. Challenging the same the present petition is filed.

Learned counsel for the petitioner submits that the order of the trial Court in directly issuing warrants without summons being served is illegal and improper. He also submits that the cover was returned with an endorsement as "addressee left" which according to him does not amount of service of summons.

Without going into the merits of the case and since the order in main M.C. was an *ex parte* order, the present Criminal Petition is

disposed of recalling the Non-bailable warrant issued against the petitioner, subject to the condition of petitioner depositing Rs.40,000/- of the arrears to the account of respondent Nos.2 and 3 herein on or before 18.03.2016. On such deposit, respondent Nos.2 and 3 are permitted to withdraw the amount without furnishing any security. Insofar as the application filed to set-aside the *ex parte* order and the M.P.No.1149 of 2015 are concerned, the trial Court shall deal with the same in accordance with law.

JUSTICE C. PRAVEEN KUMAR

04.03.2016

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