

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

CRIMINAL PETITION No.14222 of 2016

ORDER

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioner/respondent No.1 against the order, dated 03.08.2016, in CrI.M.P.No.829 of 2016 in D.V.C.No.24 of 2015 on the file of VI Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District, whereby, the learned Magistrate allowed the petition filed by respondent No.1 herein and issued Non-bailable Warrant against him.

2. Heard learned counsel for the petitioner/respondent No.1 and learned Additional Public Prosecutor representing the State.

3. The marriage of the petitioner with respondent No.1 was performed in the year 2009 at Palakollu, West Godavari District. After three years of the marriage, disputes arose between the parties and obtained mutual divorce. Thereafter, respondent No.1 herein filed D.V.C.No.24 of 2015 before VI Metropolitan Magistrate, Medchal, Ranga Reddy District, against the petitioner herein seeking relief of maintenance. The trial Court, on 01.10.2015 passed *ex parte* order directing the petitioner to pay an amount of Rs.40,000/- per month to respondent No.1 as interim maintenance. Thereafter, the petitioner filed a petition to set aside the said *ex parte* order. The learned judge, though set aside the *ex parte* order, directed the petitioner to pay maintenance of Rs.40,000/- month till disposal of D.V.C. Against the said order, the petitioner filed appeal before the Additional Metropolitan Sessions Judge, Cyberabad, sought for stay of the said order.

Respondent No.1 having evaded service of notice, filed CrI.M.P.No.829 of 2016 seeking payment of arrears of maintenance. As respondent called absent, the learned Judge allowed the petition and issued NBW to the petitioner herein. Challenging the same, the present Criminal Petition is filed.

4. Considering the facts and circumstances of the case, the Criminal Petition is disposed of with a direction to the petitioner to file an application under Section 70 (2) Cr.P.C. before the trial Court for recall of the warrant and on such application being filed, the warrant shall be recalled subject to condition of petitioner depositing 50% of the arrears of the maintenance and continue to pay maintenance as awarded by the trial Court. On such deposit, respondent No.1 is permitted to withdraw the same without furnishing any security. Furthermore, the learned VI Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy is directed to dispose of Domestic Violence Case No.24 of 2015 within a period of three (03) months from the date of receipt of a copy of this order. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M.S.K.JAISWAL, J

Date: 30.09.2016
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