

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

CRIMINAL PETITION No.14235 of 2016

ORDER

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioner/respondent against the docket order, dated 02.05.2016, in M.P.No.189 of 2015 in O.P.No.28 of 2010 on the file of Judge, Family Court-cum-V Additional District and Sessions Judge, Visakhapatnam, whereby, the Court below issued Non-bailable warrant to the petitioner for non-payment of maintenance to respondent Nos.2 to 4 herein.

2. Heard learned counsel for the petitioner/respondent and learned Additional Public Prosecutor representing the State.

3. Respondent Nos.2 to 4 herein filed the aforesaid O.P. seeking maintenance. After considering both oral and documentary evidence, the learned District Judge by order, dated 30.03.2015, allowed the petition in-part directing the petitioner to pay an amount of Rs.4,000/- per month each to respondent Nos.2 to 4 from the date of petition. As the petitioner failed to pay maintenance, respondent Nos.2 to 4 herein filed the aforesaid M.P. under Section 128 Cr.P.C. praying the Court to direct the petitioner to pay the arrears of maintenance of Rs.7,22,500/- otherwise the petitioner may send to jail. As the petitioner expressed his inability to make the payment to respondent Nos.2 to 4, the Court below issued Non-bailable warrant to him. Challenging the same, the present the 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 maintenance and continue to pay maintenance as awarded by the trial Court, failing which the order of the trial Court shall be given effect to. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Date: 30.09.2016
YVL

M.S.K.JAISWAL, J



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