

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2695 of 2017

ORDER:

Heard Sri K. Venkat Rao, learned counsel for the petitioner, and Sri Ineni Venkat Prasad, learned counsel for respondents 1 and 2.

The present Criminal Revision Case is filed questioning the order, dated 27.09.2017, in CrI.M.P.No.47 of 2017 in FCMC.No.37 of 2014 passed by the Judge, Family Court-cum-Additional District Judge, Anantapuramu, whereby and whereunder, the petition filed under Section 128 of the Code of Criminal Procedure, 1973 (for short, 'the Code') was allowed directing the husband, the revision petitioner herein, to pay arrears of Rs.4,95,000/- within one month and it was also observed that on failure to pay the same, the revision petitioner would be liable for simple imprisonment for a period of three months and the M.P was adjourned to 27.10.2017 for compliance.

On 27.10.2017 in CrI.RC.MP.No.4407 of 2017, this Court observed that the provisions of Section 128 of the Code deals with the procedure for enforcement of order of maintenance and that if both Sections 128 and 125 of the Code are read together, invariably the executing court has to follow the procedure laid down by issue of warrant for recovery of amount due by way of fine and if warrant is executed and still, the amount remained unpaid, the learned Magistrate may commit him to prison for non-compliance of direction in warrant and, therefore, the sentence of simple imprisonment for three months

was suspended. However, the court below was directed to issue warrant strictly adhering to Section 125 (3) of the Code.

Learned counsel for both parties would submit that there is nothing further to be done in the present revision case for the reason that a direction is given to the Court below to follow the procedure under Section 125 (3) of the Code.

It is true almost a final order has been passed in interlocutory application as mentioned in the above. When a direction is already given to follow the procedure in Section 125 (3) of the Code, there is nothing further to adjudicate upon in the present Criminal Revision Case.

Therefore, the present Criminal Revision Case is allowed setting aside the default clause of inflicting three months' Simple Imprisonment in case of failure to pay the arrears of Rs.4,95,000/-. However, the direction given by this Court with regard to compliance of Section 125 (3) of the Code is reiterated.

Miscellaneous Petitions, if any, pending in the present revision case, stand closed.

A. SHANKAR NARAYANA, J

26.12.2017

v v