



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1 OP(MD)No.16466 of 2016
and
Cr1MP(MD)No.8072 of 2016

B.Anitha

... Petitioner

Vs.

Balamurugan

...Respondent

PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order passed by the Judicial Magistrate Court No.II, Ramanathapuram in CrMPNo.1952 of 2016 on 01.08.2016 and allow this criminal original petition.

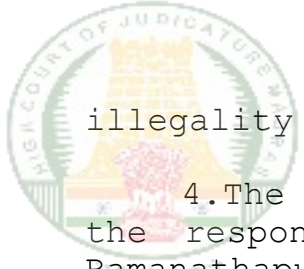
For Petitioner : Mr.H.Velavadas
For Respondents : No appearance

ORDER

This petition has been filed challenging the order passed by the Judicial Magistrate No.II, Ramanathapuram, recalling the NBW issued against the respondent.

2.It is seen from records that the petitioner is the wife and respondent is the husband. The Additional Sessions Court, FTC, Ramanathapuram by judgment in Criminal Original Petition in CrRC No.12 of 2010, dated 04.05.2011 fixed interim monthly maintenance amount at Rs.3,000/- per month from the date of the filing of the petition. This order was not complied with by the respondent and hence, NBW was issued against the respondent. The Court below, while entertaining the petition to recall the NBW, directed the respondent to deposit a sum of Rs.21,000/-. Aggrieved by the same the present petition has been filed before this Court.

3.The respondent was neither represented by Counsel nor has he appeared in person. The name of the respondent has also been printed in the cause list. The trial Court in Cr1RC No.12 of 2010 has fixed the interim maintenance at Rs.3,000/- per month and this order has also become final. Therefore, the respondent is bound by the order passed by the Additional Sessions Judge, FTC, Ramanathapuram. The Court below ought not to have recalled the NBW without ensuring that the respondent has complied the order passed in criminal revision. This Court finds that the order of the Court below suffers from



illegality and the same is liable to be set aside.

4.The learned Counsel for the petitioner also submitted that the respondent has gone abroad. The Judicial Magistrate No-II, Ramanathapuram is directed to issue NBW through Police and direct the Police to take steps to issue Lookout Circular in order to secure the respondent and produce him before the Court. This exercise shall be carried out immediately, since the case is pending from the year 2010.

5.In view of the above discussion, the criminal original petition is allowed and the order passed in CrMP No.1952 of 2016 dated 01.08.2016 is hereby set aside. Consequently, CrlMP(MD)No.8072 of 2016 is closed.

6.The petitioner is at liberty to take appropriate action against the respondent in order to recover the interim maintenance amount that is due to her pursuant to the orders passed in CrlRC No.12 of 2010.

sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To
Judicial Magistrate No.II,
Ramanathapuram.

+1cc TO MR.H.VELAVADHAS,ADVOCATE,SR.NO.83958

Cr1 OP(MD)No.16466 of 2016
11.09.2018

DSK
AK(DS)/SV/SAR1/16.10.2018/2P-3C