

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition Nos.2325 & 2326 of 2018

COMMON ORDER:

Since the facts of the case, issue involved and the parties to the litigation are once and the same in both these matters, both these Criminal Petitions are disposed of by this common order.

2. Criminal Petition No.2325 of 2018 is filed by the petitioner, under Section 482 of Cr.P.C., seeking a direction to the Court of Judicial Magistrate of First Class at Kotturu, Srikakulam District, to recall the Non-bailable warrant issued against the petitioner, vide order, dated 23.01.2018, passed in CrI.M.P.No.1314 of 2017 in M.P.No.542 of 2014 in M.C.No.9 of 2008 pending on the file of the said Court.

3. Criminal Petition No.2326 of 2018 is filed by the same petitioner, under Section 482 of Cr.P.C., seeking a same direction to the Court below, i.e., to recall the Non-bailable Warrant issued him, vide order, dated 23.01.2018, passed in CrI.M.P.No.1199 of 2017 in M.C.No.9 of 2008, pending on the file of same Court.

4. Heard the learned counsel for the petitioners, learned Assistant Public Prosecutor representing the 3rd respondent-State and perused the record.

5. In the course of submissions, it is brought to the notice of this Court that the petitioner has fallen due an amount of Rs.48,000/- to the de-facto complainants towards enhanced

maintenance in M.C.No.9 of 2008 on the file of Judicial Magistrate of First Class at Kotturu, Srikakulam District. To recover the enhanced maintenance as well as monthly maintenance from the petitioner, the learned Magistrate issued Non-bailable Warrants against the petitioner, on 23.01.2018. It is submitted by the learned counsel for the petitioner that the petitioner has filed Criminal Revision Petition in CrI.R.P.No.48 of 2017 before the Court of Principal Sessions Judge, Srikakulam, and the same is pending consideration. It is also submitted before this Court that the place of sitting of the learned Magistrate is 900 kilometres away from the place of working of the petitioner and that the petitioner is ready to clear the arrears of maintenance and also ready to pay the monthly maintenance.

6. Under these circumstances, the petitioner is directed to pay Rs.30,000/- (Rupees thirty thousand only) out of Rs.48,000/- due towards enhanced maintenance to the respondents 1 and 2/wife & son, within a period of thirty (30) days from the date of this order. He shall continue to pay the monthly maintenance, i.e., Rs.2,800/- per month till the final termination of the proceedings in CrI.R.P.No.48 of 2017 pending before the Principal Sessions Judge, Srikakulam. On compliance of the above directions, the Non-bailable warrant issued against the petitioner by the learned Magistrate in M.C.No.9 of 2008 stands recalled. In case of default in payment of future maintenance, the Court below is entitled to deal with the same in accordance with law.

7. With the above directions/observations, both these Criminal Petitions are disposed of. Further, the learned Sessions Judge is directed to dispose of the Criminal Revision Petition No.48 of 2017 within four (04) months from today.

Miscellaneous petitions, if any, pending in both these Criminal Petitions, shall stand dismissed.

Dr. Shameem Akther, J

26th February, 2018
Bvv

