

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3314 OF 2018

ORDER:

This criminal petition is filed by petitioner under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the order dated 28.07.2017 in CrI.M.p.No.2270 of 2016 in D.V.C.No.58 of 2013 on the file of the Court of the XIX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, whereby N.B.W. was issued for non-appearance of the petitioner herein due to failure to pay amount payable towards interim maintenance to the respondent herein.

It is the contention of the petitioner that the order is non-speaking and unreasoned. However, when the main case is disposed, interim order is deemed to have been merged in the main order, in such case, the respondent cannot execute the warrant.

The petitioner has to raise such contention before the trial Court, at this stage, this Court cannot go into the said aspect in view of the limited scope of the order under challenge before this Court.

The reason assigned by the trial Court is that the petitioner was absent and he has not paid the interim maintenance during pendency of the main case. The reason assigned by the Court below is sufficient. However, the petitioner can appear before the Court below and file counter raising plea of merger of interim order in the main case and contest the matter before the Court below itself. This Court cannot decide the legality of the order on that ground at this stage. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY