

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.4204 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the docket order dated 08.08.2016 passed in S.R.No.821 of 2016 in DVC No.139 of 2013 by the III Metropolitan Magistrate, Hyderabad, issuing NBW against the petitioner/accused though he was present and first respondent/complainant called absent.

2. It is the case of the petitioner that the first respondent filed DVC No.139 of 2013 against the petitioner. In Crl.R.C.No.509 of 2016 filed by petitioner, this Court directed him to pay a sum of Rs.6,000/-per month towards interim maintenance to the minor daughter on or before 10th of every succeeding month. The petitioner did not pay the said maintenance. But, he filed Crl.R.C.M.P.No.1285 of 2016 in Crl.R.C.No.509 of 2016 for extension of time for payment of first instalment and arrears and this Court passed the following order on 30.03.2016:

“The petition is allowed as prayed for”.

Since this Court did not mention the specific period extending the time for payment of first instalment and arrears, the petitioner did not pay the interim maintenance as modified by this Court. Thereupon, the Court below issued NBW against the petitioner. In fact, the order passed by the Magistrate in DVC is in force. But no application under Section 31 of Domestic Violence Act, 2005, is filed for enforcement of the order. In the absence of any such application, issuing NBW against the petitioner is an illegality in view of the

judgment of this Court in ***Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.***¹. Hence, the order impugned is hereby set aside while directing the Magistrate to dispose of D.V.C.No.139 of 2013 as expeditiously as possible, in any event, not less than six months from today,

3. Accordingly, the Criminal Petition is allowed. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

21st June, 2018

Note:
Issue CC by Monday

sj



¹ 2015 (2) ALD (CrI.) 470 (AP)