

HON' BLE SRI JUSTICE G.SHYAM PRASAD

CrI.R.C.No. 2920 of 2018

JUDGMENT:-

This Criminal Revision Case arises out of the Docket Order dated 18.07.2018 in CrI.M.P.No. 2425 of 2017 in M.C.No. 2 of 2011 whereby the learned Judicial Magistrate of First Class, Kanigiri passed the following order:

“Petitioner present. Respondent absent. Balance not paid. Petition filed and rejected. Issue NBW against respondent. Call on 17.08.2018.”

The petitioner is the respondent in M.C.No. 2 of 2011. The 1st respondent herein filed the M.C. and the trial Court allowed the M.C. directing the petitioner - husband to pay a sum of Rs.10,000/- p.m. to the 1st respondent-wife towards maintenance. The 1st respondent also filed a petition for arrears of maintenance due from 23.01.2015 to 23.04.2015 and the same is pending. Thereafter, the petitioner filed a petition under Section 317 Cr.P.C. seeking to dispense with his appearance and another petition under Section 340 Cr.P.C. seeking to make preliminary enquiry with regard to false and incomplete address furnished by the 1st respondent and both the petitions were rejected. Subsequently, the 1st respondent has filed CrI.M.P.No. 2425 of 2017 in M.C.No. 2 of 2011 seeking recovery of arrears of maintenance for the period

from 16.08.2016 to 16.08.2017 and issuance of N.B.W. against the petitioner.

The petitioner-husband has filed counter affidavit before the trial Court stating that his wife has not furnished her correct and complete address and details of bank account, as such, he could not pay arrears of maintenance amount. It is further contended that the petitioner is not liable to pay the amount of Rs.1,20,000/- for the period from 16.08.2016 to 16.08.2012.

The learned counsel for the petitioner contends that the trial Court, without considering his submission, ordered issuance of N.B.W. against the petitioner. Challenging the same, the present Criminal Revision Case is preferred.

Having regard to the rival contentions of the learned counsel for both the parties, it is obvious that the petitioner has not paid the maintenance amount of Rs.1,20,000/- on the pretext that neither the Bank account particulars nor correct address of the 1st respondent-wife have been furnished. The reasons mentioned by the petitioner's counsel are not acceptable for the reason that the petitioner ought to have deposited the amounts in the Court to the credit of M.C. as per the orders of the Court. Therefore, there are no valid grounds for entertaining this revision Case. Inasmuch as the impugned proceedings are interlocutory in nature, this Court,

in exercise of its revisional jurisdiction, cannot entertain this Revision Case as the same is not maintainable. However, the petitioner is given liberty to approach the trial Court and file a petition for recalling NBW issued against him, and the trial Court, on such application being filed, may consider and pass appropriate orders thereon by imposing reasonable conditions and shall also consider the aspect of furnishing of particulars of Bank Account and correct address of the 1st respondent.

With the above observations, the Criminal Revision Case is disposed of.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

31.10.2018

bcj

G.SHYAM PRASAD,J

