

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (FOR MAINTENANCE) NO. 7601 of
2020**

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JAKIRBHAI SHERUJI PINJARA

Versus

STATE OF GUJARAT & ORS.
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Appearance:

HCLS COMMITTEE(4998) for the Applicant(s) No. 1

MR NEERAJ SONI(3433) for the Applicant(s) No. 1

MR JAYENDRA M SHAH(5657) for the Respondent(s) No. 2,3,4

MR JAY MEHTA APP for the Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA**Date : 02/04/2024****ORAL ORDER**

1. This application is directed against the order dated 10.04.2018, passed in Cr,M.A. 159 of 2014, by which, the Family Court, Ahmedabad, sentenced the applicant husband, in making default in payment of arrears of maintenance.
2. Learned counsel Mr. Neeraj Soni assailing the order impugned, has submitted that, without serving notice to husband – applicant, straightway, the order of the sentence was passed and that too, without assigning sufficient reasons and therefore, on this count, the order is not sustainable in law.
3. When the matter is called out, learned counsel appearing for and on behalf of respondent no. 2 did not remain present to assist the Court.

4. Having regard to the facts and circumstances of the present case and on perusal of the reasons recorded by the Family Court, this Court is of the view that, the notice of the recovery petition was not having been served nor before issuing arrest warrant, the warrant for immovable property was issued by the court concerned. In such circumstances, the order impugned on this ground is not sustainable in law.
5. Accordingly, the application is allowed. Rule is made absolute to aforesaid extent. The order impugned dated 10.04.2018 passed in Cr.M.A. No. 159 of 2014 is quashed and matter is remanded to the Family Court, Ahmedabad to decide the application afresh on its own merits and in accordance with law. Direct service is permitted.

P.S. JOSHI

(ILESH J. VORA,J)