



CrI.O.P.No. 6087 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 6087 of 2025

and

CrI.M.P.No.3899 of 2025

S.Sivakumar

..... Petitioner

Vs

J.Thennarasi

..... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 04.09.2024 made in CMP. No. 3729 of 2023 in MC.No. 22 of 2012 on the file of Judicial Magistrate, Gudiyatham.

For Petitioners : Mr.M.Guruprasad

For Respondent : Mr.V.Pushpalatha

ORDER

This Criminal Original Petition has been filed challenging the order dated 04.09.2024 passed in CMP No.3729 of 2023 in M.C.No.22 of 2012 by the Judicial Magistrate, Gudiyatham.

2. Heard the learned counsel appearing on either side and perused



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the materials available on record.

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3. The petitioner is the husband of the respondent herein. After their marriage, due to misunderstandings, they got separated. Therefore, the respondent could not able to maintain herself and filed a maintenance case in M.C.No.22 of 2012. After filling his counter, the petitioner failed to appear before the Trial Court. Thereafter, the maintenance case was ordered by the Trial Court and directed the petitioner to pay a sum of Rs.4,000/- per month as maintenance to the respondent. However, the petitioner did not comply with the order and as such the respondent filed a petition under Section 128 of Cr.P.C in CMP No.3729 of 2023 in M.C.No.22 of 2012. The Trial Court, by an order dated 04.09.2024, allowed the petition and issued a Dstraint Warrant.

4. The learned counsel appearing for the petitioner would submit that after issuing the Dstraint Warrant, the Trial Court issued Form No.18 to arrest the petitioner instead of Form No.44. As per procedure, after issuance of a Dstraint Warrant to recover the arrears of maintenance, the Trial Court should issue Form No.44. The Form 44 is to be issued to the Revenue Authorities to facilitate the recovery of



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arrears from the petitioner's movable and immovable property.

WEB COPY 5. In view of the above, the Trial Court is directed to issued Form No.44 to execute the Dstraint Warrant issued as against the petitioner on 04.09.2024.

6. With the above clarification, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

01.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
The Judicial Magistrate,
Gudiyatham.



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G.K.ILANTHIRAIYAN, J.

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