

Date: 06.08.2024

ORDER ON APPLICATION FILED U/SEC 128 OF CRPC

The petitioners has filed this petition U/sec.128 of Crpc praying for awarding maintenance amount of Rs.3000/- each per month to petitioners

Award of Maintenance:-

2. The petitioners had filed petition for an application U/sec.125 of Crpc praying for awarding Maintenance amount of Rs.5,000/ - each per month to petitioners. Accordingly, a considered order dated 26/11/2019 was passed by awarding Maintenance amount of Rs.3000/- each per month to petitioners in Cr Misc No 429/2019.

3. Application filed U/sec. 128 of CrPC

3a) The petitioner had filed an application U/sec.128 of Crpc for recovery of unpaid arrears of Maintenance amounting to Rs.2,94,000/- standing in due from December 2019 to December 2023.

3b) Per contra, the respondent had not filed any objection to the application.

4. Points for consideration:-

Perused the records, Heard both sides, the following points arise for the consideration of this Court:-

1. Whether the respondent had defaulted in the payment of the monthly maintenance awarded by this Court, amounting to Rs.3000/- each per month to petitioners?
2. What Order?

5. The findings of this court are as under:-

Point No.1: In the **Affirmative**

Point No.2: As per the final order.

REASONS

6. **Point No.1:** This court already passed considered order in application u/s 125 of CrPC. As per the provisions contemplated in CrPC, the petitioner shall file the recovery

petition within a period of one year. Furthermore, the respondent has not given proper and reasonable explanation with cogent reasons substantiating his cause for not paying the maintenance amount. And there is no reasonable grounds made out that why the court should not take action against them. Hence, Point No.1 is answered in the **Affirmative**.

7. Point No.2: For the reasons discussed herein above, this Court is inclined to pass the following

ORDER

Acting U/sec. 421(1) (a) r/w Sec.431 of Crpc, Issue FLW against the respondent for the levy of the arrears of maintenance amounting to Rs.2,94,000/-, by attachment and sale of any movable property belonging to the respondent.

Returnable by: 24/08

(Dictated to the stenographer, transcribed and computerized by her, corrected and initialed by me and then pronounced in open Court dated this 6th day of August 2024.)

Sd/-
C.J. & JMFC. Sedam

