

Order on application filed under
Sec.421 of CR.P.C.

1. The petitioner has filed this petition under section 421 of Cr.P.C for the recovery of arrears of interim maintenance of Rs.4,12,500/- as per the order passed by this court on interim application in Crl.Misc. No.195/2013 dated; 9-01-2019 by directing the respondent to pay Rs.10,000/- per month from the date of application. It is further contended that, in spite of order passed by this court the respondent has not paid any amount and hence, sought for attachment of salary of the respondent who is working as Postman in Mothilal Nagar Post office, Goregao, West Mumbai. However, the gross take home salary of the respondent is not furnished by the petitioner. It is further contended in the application that, in view of the recovery of the maintenance as per the above said order of this court, it is just and proper to allow the application in question and hence, he sought for allowing the same.

2. Per contra, the respondent filed objection to the memo of calculation contending that, the calculation memo filed by the petitioner is false and she has not shown the payments already made by the respondent and that the very respondent has paid ₹.2,00,000/- at the time of filing the divorce petition by the respondent at Maharashtra and in this regard she had executed affidavit in the form of the declaration. It is the contention of the respondent that, he has already paid a sum of ₹.6,07,500/- and the balance amount payable to petitioner is ₹ 1,72,500/- and hence, he sought for dismissal of the petition.

3. I have perused the petition and the present petition is filed for recovery of arrears of monthly maintenance passed in Crl.Misc.No.195/2013. On the contrary, the respondent has not contended that, there is a revision petition pending before the Hon'ble District and Sessions Court, Karwar as against order passed by this court in Crl.Misc.No.195/2013 and the same is pending for disposal. I have perused the records. At the outset it is worth to note that the respondent has not produced any document to show that order passed by this court on the interim application filed in Crl.Misc.No.195/2013 has been stayed by the Appellate

Court. Under the said order, the respondent is directed to pay a sum of Rs.10,000/- per month to the petitioner towards monthly maintenance. On careful perusal of the materials available on record, it reveals that as on date of filing this application there is due of ₹.1,72,500/-. It is pertinent to state here that, the respondent has not disputed that he is working in post office as Postman and there is no arrears of interim maintenance. However, there is due of Rs.1,82,500/- which could be seen from the memo of the calculation dated; 21-04-2023 filed by the respondent. The petitioner has contended that, the respondent has not complied the order. In the application in hand, the petitioner has prayed for an order for attaching the salary and the particulars of salary and other information regarding job and bank account is not referred in the application in question. Under such circumstances, it is just and proper to attach 1/3rd take home salary of the respondent till recovery of Rs.1,82,500/- and therefore, following;

ORDER

Application dated; 16-01-2021 filed by the petitioner under section 421 of Cr.P.C stands allowed.

Issue attachment order of 1/3 rd monthly take home salary of the respondent till recovery of Rs.1,82,500/-.

Hence, issue attachment warrant of salary of the respondent if particulars is furnished and PF is paid.

Call on for furnishing memo of calculation for remaining balance amount to be payable by the respondent.

**Prl. Civil Judge and JMFC-II,
Karwar**

