

DATED: 11.02.2025

Crl.Misc.No.06/2020

Heard perused.

2. The I.A. filed U/Sec. 151 of CPC by the respondent, wherein the respondent prays to permit him to file objections to I.A. filed U/Sec. 421 of Cr.P.C. The petitioner has filed objections resisting the said application stating that she has filed the present petition for recovery of maintenance, since, 2020 till date the respondent has not appeared before the Court or filed any objections. The respondent has not paid the balance maintenance amount. The respondent objection was taken as not filed after granting sufficient time. The respondent kept quite from the year 2020. The respondent has not shown the sufficient reasons. The petitioner further contended that, the respondent is a teacher in High School and he is retiring from his service on 31.01.2025, therefore, in order to avoid payment of maintenance he has filed the present petition. On those grounds, prays to reject the I.A.No.I.

3. Heard both sides.

4. The following points arise for my consideration;

1. *Whether the applicant has made out sufficient grounds to allow I.A.?*

2. *What order?*

5. My answers to the above points are as follows;

Point No.1 : In the Affirmative

Point No.2 : As per the final order, for the following;

REASONS

6. **POINT NO.1:** The respondent has contended that, he has challenged the order passed by this Court in CrI.Misc.No.214/2018 under CrI.Rev.Petition No.20/2020 before the Hon'ble IV Addl.District and Sessions Judge, Vijayapura and also moved an application U/Sec.391 of Cr.P.C. for production of additional evidence. After hearing the said application was allowed and the case was transferred to this Court for recording evidence of respondent. In this case, the date was fixed on 08.01.2025 for objection to the application for salary attachment, on that day, the respondent had been to the Court meantime before he reach the Court the case was called out and objection of the respondent was taken as not filed and case was posted for orders on I.A. hence, on those grounds, the respondent prays to allow the I.A.

7. On the other hand, the petitioner contended that, the respondent is retiring from

his service on 31.01.2025 and he has not appeared before this Court, since, 2020. Now, in order to avoid the payment of maintenance, the respondent has filed the present application.

8. But, the respondent has contended that, the Crl.Rev.Petition filed by him is allowed by the Hon'ble Appellate Court and the case was remanded back to this Court for evidence of the respondent.

9. When that is the case, then, an opportunity has to be given to the respondent, but however, the respondent has approached the Court belatedly. Therefore, the respondent has to compensate the petitioners for causing delay in filing the application. Hence, for the foregoing reasons, my findings to point No.1 is in the Affirmative.

10. **Point No.2:** In view of the above, I proceed to pass the following;

ORDER

The I.A. filed by the respondent U/Sec 151 of CPC is hereby allowed with costs of Rs.1,000/-.

The objections filed by the respondent is taken on record.

Addl.Sr.C.J.& J.M.F.C.
B.Bagewadi

Heard and perused the I.A. filed U/Sec. 421 of Cr.P.C. by the petitioner. Wherein the petitioner has sought for attachment of salary of the respondent for recovery of arrears of maintenance amount of Rs.5,47,000/-.

2. The respondent has filed objections to the said petition stating that, he has challenged the order passed by in Crl.Misc. No. 214/2018 under Crl.Rev.Petition No.20/2020. In the said Crl.Rev.Petition, the Hon'ble Appellate Court has allowed the same and directed this Court to record the evidence of respondent and send back the file within three months. As such, the present application filed by the petitioner for attachment of salary is not worthy to be considered. On those grounds, prays to reject the I.A.

3. The respondent also produced the documents i.e. certified copy of order passed in Crl.Rev.Petition No.20/2020. Wherein the Hon'ble Appellate Court was allowed the revision petition and respondent is permitted to produce the documents and to lead evidence and the file was send back to that Court for recording of evidence. When that is the case, then, the order passed by this Court in Crl. Misc.No.214/2018, is not executable until the final order from the Hon'ble District Court, since, the revision

petition was allowed by the Hon'ble District Court. Therefore, until the final order of the Hon'ble District Court in Crl.Rev.petition No.20/2020, the I.A.filed by the petitioner U/Sec. 421 of Cr.P.C. is to be kept in abeyance till further orders.

Call on for production of further order of the Hon'ble Appellate Court

By: **10.03.2025**

Addl.Sr.C.J.& J.M.F.C.
B.Bagewadi