

IN THE COURT OF JUDICIAL MAGISTRATE, (FIRST CLASS),  
71ST COURT, BANDRA, MUMBAI.

CNR NO.MHMM18-000555-2023

C. C. No.37 /MISC./2023  
Sameera V/s. Sayyed  
police station-Vakola

ORDER BELOW EXH.1

Today the respondent Sayyed Abdul Khadar @ Kadeer produced by Civil Head Constable Shri Uday Naik B.No.346 of police station-Bhatkal Town, in pursuance of Non-Bailable Warrant issued against the respondent. The respondent has no complaint of illtreatment at the hands of police.

2. The record shows that, in C. C. No. 238/DV/2017 by order and judgment dated 05/10/2019 the respondent is directed to pay maintenance to the tune of ₹.10,000/- p.m. and also directed to pay the cost of ₹.10,000/- to the applicant.

3. The applicant on 30/01/2023 filed the application for recovery of the arrears of maintenance amount of ₹.6,30,000/- since December 2017 to January 2023. But till today the respondent has not paid single penny to applicant.

4. Initially, the notices have been issued to respondent. Thereafter the Distress Warrant came to be issued against the respondent. So many efforts have been taken by the applicant to execute the Distress Warrant. But for want of address the execution of Distress Warrant could not be effected.

5. The respondent did not pay amount since 2019 towards maintenance of applicant. The Distress Warrant again issued against the respondent for recovery of arrears of maintenance. The Karnataka police have sent the letter to the Revenue Officer i.e. Tahasildar of Bhatkal for enforcing the Distress Warrant by levying the property of the respondent. In turn the Tahasildar on 07/01/2025 reported to

Karnataka police that, no property belonging to the respondent found for enforcement of Distress Warrant.

6. The respondent is failed to pay the maintenance amount, which as on today appears to be ₹. 9,00,000/- and more. Applicant alongwith her Ld. Advocate present before the court. She submits that respondent be remanded to MCR for default of maintenance order.

7. The respondent submits that, he has no means of livelihood and unable to pay the maintenance. He further submits that, he do not want to pay the maintenance, as per order, as he has no source of income.

8. The maintenance order passed under the provision of Domestic Violence Act can be enforced by adoptinbg procedure availabel in Code of Criminal Procedure. Despite of Distress Warrant and after arresting and producing before the Court the respondent is denying to pay any amount of maintenance to applicant, therefore, he has faulted the maintenance order dated 05/10/2019.

9. Clause 3 of section 125 of Code of Criminal Procedure if any person ordered to pay maintenance fails without sufficient cause to comply with the order, any such Magistrate may for breach of the order, issued a Warrant for levying the amount due in the manner provided for levying fines and may sentence such person for whole or any part of such months remaining unpaid after the execution of Warrant imprisonment for a term which may extent to one month or until payment sooner is made.

10. In the year 2019, the respondent directed to pay the maintenance of ₹.10,000/- p.m. to the applicant. The applicant made many efforts for securing presence of respondent in the matter by issuing the notices. The Distress Warrant came to be issued but the Revenue Officer sent report that, no property is found belonging to the respondent, therefore, Distress Warrant could not be executed.

11. Today also the respondent is disobeying the order dated 05/10/2019 by refusing to pay any amount towards maintenance to applicant. Therefore, he has wilfully breached the order dated 05/10/2019. Hence, he is liable for imprisonment. Therefore, I proceed to pass following order.

ORDER

1. The respondent Sayyed Abdul Khadar @ Kadeer shall suffer simple imprisonment for one month for breach of maintenance order dated 05/10/2019.
2. The Jailor is hereby directed that, if respondent or anybody claiming under him paid or deposited the maintenance amount of applicant to the tune of ₹.9,00,000/- he shall released the respondent forthwith.

Mumbai.  
Date : 24/06/2025.  
SRD

Sd/-  
(A. B. Jadhav)  
Judicial Magistrate, (First Class),  
71<sup>st</sup> Court, Bandra, Mumbai.