

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

**HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 28th OF OCTOBER, 2022

CONTEMPT PETITION CIVIL No. 2297 of 2022

BETWEEN:-

**ASHUTOSH MISHRA S/O ROHNI KUMAR,
AGED ABOUT 40 YEARS, OCCUPATION:
COMPUTER ENGINEER, R/O I.T.I. ROAD,
SHANTI NAGAR, KHEDAPATI, MATA
MANDIR ROAD, HOSHANGABAD
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI PRAMOD SINGH TOMAR – ADVOCATE)

AND

**KU. SUMAN SHRIVASTAVA, PRINCIPAL
JUDGE, FAMILY COURT SEHORE
(MADHYA PRADESH)**

.....RESPONDENT

*This petition coming on for admission this day, Hon'ble Shri
Justice Ravi Malimath, Chief Justice passed the following:*

ORDER

This petition is filed against the order passed by the Principal
Judge, Family Court, Sehore.

2. The case of the petitioner is that the Hon'ble High Court of Madhya Pradesh, Jabalpur vide order dated 20.03.2020 passed in Criminal Revision No.1331 of 2020 granted interim relief to the petitioner, which reads as follows:-

“Heard on the question of admission.

Let record of the court below be called for.

Let notice be issued to the respondents on payment of process fee within seven working days by registered post with acknowledgement due as well as by ordinary mode.

If the petitioner deposits Rs.50,000/- from the arrears of Rs.1,71,000/- before the trial Court within a month and continues to regularly pay the respondents in compliance of order of the court below, the further execution proceedings against the petitioner shall remain stayed till next date of hearing.”

3. That he has made payment subsequently in terms of the said order. Notwithstanding the same, the order dated 09.09.2022 has been passed issuing a non-bailable warrant against the petitioner. Therefore, the case of the petitioner is that the concerned Judge has committed a contempt of Court.

4. On hearing learned counsel, we do not find any merit in this petition.

5. Firstly, is the fact that assuming a non-bailable warrant has been issued against the petitioner for whatever reasons it may be, the petitioner always has a remedy to ensure that the order is recalled by the concerned Court. The provision of law postulates a right to the petitioner to seek recall of an order of warrant issued by the Court. The same has not been done. Material is being shown that payments have been made. However, the order of warrant indicates that the petitioner himself has sought for time to make payment. Therefore, on merit, we find no good ground to interfere.

6. The order dated 06.05.2022, indicates that certain payments have been made by the petitioner. Thereafter, an application was made seeking maintenance for the arrears on 05.07.2022. Vide order dated 20.07.2022, the petitioner himself sought time to make the payment of arrears. Thereafter, the order dated 09.09.2022 has been passed. Since the time was sought for by the petitioner, the warrant was issued for the same.

7. This is a petition seeking for initiation of proceedings for contempt. Before any contempt petition is filed, it is necessary that the petitioner understands his case. Merely because a wrong order has been passed by the trial Court, does not mean contempt proceedings should be initiated. The same has been held by this Court in the order dated 20.09.2022 passed in Contempt Petition No.1987 of 2022. In spite of the same, such a reckless petition has been filed. Hence, while dismissing the petition, we are of the view that the petitioner should be imposed with cost in order to ensure that there should not be any misuse of the law.

8. Under the circumstances, the petition is dismissed directing the petitioner to pay a cost of Rs.50,000/- with the Registry of this Court within a period of one week from today.

9. Call next week to report compliance.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE

