

1931

Present : Macdonell C.J.

SIVAKAMAN v. VELUPILLAI.

753—P. C. Kayts, 6,781.

*Maintenance—Arrears for eighteen months—Warrant against defaulter for whole sum—Ordinance No. 19 of 1889, ss. 3 and 9.*

Where the respondent to maintenance proceedings was in arrears for a period of eighteen months and the Magistrate, in issuing a warrant for the recovery of arrears, awarded a term of six months' imprisonment in default of payment,—

*Held*, that the warrant was regular under section 9 of the Maintenance Ordinance.

**A** PPEAL from an order of the Police Magistrate of Kayts.

V. *Thillainathan*, for defendant, appellant.

November 3, 1931. MACDONELL C.J.—

I reserved judgment in this matter, because I was not quite certain of the meaning of section 9 of the Maintenance Ordinance, No. 19 of 1889.

In this case the respondent against whom a maintenance order to pay each month had been made under section 3 fell into arrears for eighteen months. A warrant was taken out against him under section 9 for the whole of the eighteen months' maintenance due, and in default of payment he was awarded imprisonment for six months. It was admitted in argument that if a warrant had been taken out at the end of each one of those eighteen months and the respondent had received a month's imprisonment under each one of those warrants this would have been perfectly lawful under section 9. I do not see that mere fact that one warrant has been issued for the whole amount at all invalidates what the Magistrate has done. The Magistrate has not made order of imprisonment beyond the six months which the law allows him in default of payment.

The appeal must therefore be dismissed with costs.

*Appeal dismissed.*

