

THE HON'BLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.2541 of 2015

ORDER

The present criminal revision case is directed against the judgment dated 31.10.2014 passed in M.C.No.46 of 2011 by the learned IV Additional Junior Civil Judge, Rajahmundry.

2. Petitioners herein being the wife and son of the first respondent filed M.C.No.46 of 2011 claiming maintenance of Rs.5,000/-per month each from the first respondent. During the pendency of said M.C., the trial Court granted interim maintenance at Rs.1500/-each to the petitioners. It is stated that the said order has not been complied with by the first respondent. While so, in the said M.C. trial was commenced, P.W.1 was examined and the case was posted to 31.10.2014 for further cross-examination of P.W.1 on payment of costs of Rs.50/-. On 31.10.2014, since P.W.1 was called absent, the trial Court dismissed the M.C. for default. Aggrieved by the same, the petitioners filed the present revision.

3. Learned counsel for the petitioners submits that by the time P.W.1 reached the Court, the case was called and dismissed for default and therefore, the absence of P.W.1 before the trial Court is neither willful nor wanton.

4. Considering the facts and circumstances of the case and in view of the submission of the learned counsel for the petitioners that the absence of the first petitioner is neither willful nor wanton, this Court is of the view that an opportunity should be given to the petitioners to proceed with trial of the case. In view of the same, the judgment dated 31.10.2014 passed in M.C.No.46 of 2011 is set aside and the trial Court is directed to restore the said M.C. to its file and dispose of the same after affording an opportunity to both the parties.

5. Accordingly, the Criminal Revision Case is disposed of. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

26th November, 2015

sj