

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.2197 of 2014

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ORDER

This revision is directed against the order, dated 30.06.2014 passed in Crl.R.P.No.5 of 2014 by the learned VI Additional Sessions Judge (III FTC) Warangal at Mahabubabad.

2. The petitioners herein are the wife and children of the first respondent. They filed M.C.No.14 of 2007 seeking to grant maintenance at the rate of Rs.2,000/- to the first petitioner and Rs.1,000/-each to petitioners 2 to 4 per month payable by the first respondent. By order dated 23.12.2013, the trial Court directed the first respondent to pay monthly maintenance of Rs.2,000/-to the first petitioner and Rs.1,000/- to petitioners 2 to 4 per month on or before 5th of every succeeding month from the date of the order. Aggrieved by the same, the first respondent filed Crl.R.P.No.5 of 2014. By the order impugned, the said revision petition was allowed setting aside the order dated 23.12.2013 in M.C.No.14 of 2007. Challenging the same, the petitioners filed the present revision.

3. Heard and perused the material on record.

4. Learned counsel for the petitioners contended that the revisional Court ought not to have allowed the revision instead of remanding the matter to the trial Court for fresh consideration by giving one more opportunity to the petitioners to lead evidence.

5. Admittedly, during the course of M.C. proceedings, the petitioners have failed to come forward to adduce evidence before the Court and based on the counter averments, the trial Court directed the first respondent to pay monthly maintenance to the petitioners as stated supra. While allowing the revision, the revisional Court observed that procedure as laid down under Section 126(2)

Cr.P.C. to be followed in proceedings under Section 125 Cr.P.C and set aside the order of maintenance granted by the trial Court.

6. Considering the facts and circumstances of the case, this Court is of the view that though the revisional Court has rightly observed that procedure to be followed while granting maintenance i.e., collection of oral and documentary evidence, ought to have remanded the matter to the trial Court for fresh consideration on merits. Therefore, the order impugned is set aside and the matter is remanded to the trial Court for fresh disposal on merits. Hence, the Criminal Revision Case is allowed with the following directions;

(a) the trial Court is directed to conduct trial afresh in the M.C, and pass appropriate orders in accordance with law after giving notice and opportunity of hearing to both the parties;

(b) meanwhile, the first respondent is directed to pay a sum of Rs.1000/- to the first petitioner and Rs.500/-each to petitioners 2 to 4 per month towards interim maintenance from the month of November, 2015 and continue to pay the same on or before 10th of every succeeding month till disposal of the maintenance case.

(c) the first respondent herein is also directed to pay the entire arrears of maintenance at the rate fixed by this Court in three equal monthly instalments commencing from the month of November, 2015. The payments, if any made, have to be adjusted accordingly.

7. With the above direction, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

8th October, 2015.

sj