

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT APPEAL No.961 of 2015

JUDGMENT: *(Per Hon'ble Sri Justice R.Subhash Reddy)*

This Writ Appeal is filed against the order, dated 01.09.2015, in W.P.No.27817 of 2015 passed by the learned Single Judge of this Court.

The appellant-writ petitioner is the wife of the 4th respondent, who is an employee in the 1st respondent-Singareni Collieries Company Limited. She approached the Magistrate by filing a petition in M.C.No.28 of 2003 under Section 125 Cr.P.C., wherein maintenance of Rs.500/- per month was granted, but subsequently the same was enhanced to Rs.4,000/- per month. It is the allegation of the writ petitioner that as the 4th respondent failed to pay the maintenance and an amount of Rs.1,97,000/- fell due towards arrears, she filed a petition in CrI.M.P.No.682 of 2015, seeking enforcement of the order of maintenance, and the learned Magistrate has passed an order therein directing the 1st respondent Company to deduct the amount from the salary of the 4th respondent as per Section 60 of CPC and remit the same to the credit of M.C.No.28 of 2003. In the writ petition, a direction was sought to the respondent authorities not to pay the pensionary benefits to the 4th respondent in view of arrears of maintenance.

To enforce the order passed under Section 125 Cr.P.C., the writ petitioner has already moved Crl.M.P.No.682 of 2015, in which orders were passed. In view of availability of alternative remedy under Section 125 (3) and 128 of Cr.P.C., the learned Single Judge has held that the writ petitioner is not entitled for the relief sought in the writ petition filed under Article 226 of the Constitution of India.

After hearing learned counsel for the appellant, we are also of the view that in view of remedies available under Section 125 (3) and 128 of Cr.P.C., the writ petitioner is not entitled to the directions as prayed for in the writ petition. Hence, we do not find any merit in the writ appeal to interfere with the order passed by the learned Single Judge.

Accordingly, the Writ Appeal is dismissed, granting liberty to the appellant to avail alternative remedies for recovery of the arrears of maintenance from the 4th respondent.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

03.11.2015

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