

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.351 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order dated 08.01.2015 passed in M.C.No.12 of 2012 on the file of the Judicial Magistrate of First Class, Sompeta, whereby the learned trial Judge granted maintenance amount of Rs.5,000/- (Rupees five thousand only) to the second respondent herein.

Heard and perused the material available on record.

This Court, by way of an interim order, dated 04.03.2015, suspended the order dated 08.01.2015 passed in M.C.No.12 of 2012, on condition of the petitioner depositing entire arrears of maintenance within a period of four weeks from the said date and directed to pay maintenance at Rs.3,500/- (Rupees three thousand and five hundred only) per month to the second respondent herein, and in default, the stay shall stand vacated.

When the case is taken up for hearing, it is informed by the learned counsel for the second respondent submitted that the petitioner has not complied with the interim order passed by this Court.

It is evident from the record that neither the petitioner nor the second respondent able to prove their contention by way of producing any document to substantiate the income of the petitioner herein. But, the trial Court on presumption that the petitioner is capable of maintaining himself and also assessing that the petitioner is earning salary of Rs.25,000/- per month, passed the impugned order.

This Court is of the view that even in the absence of any evidence regarding the salary, it is well settled proposition of law that it is the duty of the husband to maintain his wife. Even assuming that the

petitioner is not in a position to earn anything, he cannot be exempted from maintaining his wife.

Considering this aspect of law, the criminal revision case is disposed of with the following.

(i) The petitioner is hereby directed to pay maintenance amount of Rs.3,000/- (Rupees three thousand only) per month to the second respondent herein from the month of August, 2015.

(ii) The petitioner is also directed to pay arrears to the second respondent calculating @ Rs.3,000/- per month in four equal instalments, i.e., August, September, October and November, 2015.

With the above directions, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

01.07.2015
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