

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION NO.1395 OF 2011

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure for quashing of order dated 15.06.2010 passed in CrI.MP.No.785 of 2010 in D.V.C.No.8 of 2010 on the file of the Judicial First Class Magistrate, Pedapalli, Karimnagar.

The petitioner-husband is the respondent in the above said D.V.C. Respondent Nos.2 to 5 are admittedly the wife and children of the petitioner. The second respondent-wife filed D.V.C.No.8 of 2010 claiming certain reliefs including maintenance. By order dated 15.06.2010, the Court below ordered a total sum of Rs.10,000/- per month to be paid to the wife and children by taking into consideration the fact that the husband is having landed property and bank balance.

The contention of the petitioner is that the order passed by the Court below is not passed on any evidence and hence, the same is liable to be set aside.

As noted above, the impugned order is an *ex parte* order and is made by way of interim arrangement. It is always open for the petitioner to question the correctness of the order before the Magistrate where the D.V.C. is pending and who awarded interim maintenance. Admittedly, the respondents are wife and grownup children of the petitioner. Therefore, he cannot deny his moral and legal liability to maintain them. It is not as if the respondents are having independent income so as to maintain themselves. Therefore, the impugned order cannot be said to be erroneous.

In the result, the Criminal Petition is dismissed. It is open to the petitioner to question the correctness of the interim maintenance granted by the Court below. Further, the Court below is directed to dispose of D.V.C.No.8 of 2010 within three (3) months from the date of receipt of a copy of this order. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.S.K.JAISWAL, J)

17th July 2015
RRB