

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRIMINAL PETITION No.320 of 2015

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. to quash the order dated 02-12-2014 in CrI.M.P.No.1505 of 2013 in M.C.No.274 of 2013 of the Judge, Family Court at L.B.Nagar, Ranga Reddy District.

The petitioner herein is the husband of the first respondent and the father of the second respondent.

The respondents 1 and 2 filed M.C.No.274 of 2013 before the said Court under Section 125 Cr.P.C. seeking maintenance at the rate of Rs.10,000/- per month to the first respondent and Rs.5,000/- to the second respondent .

In the said application, it is alleged that on account of harassment by the petitioner and his family members, the first respondent had lodged a complaint against the petitioner and his family members under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act,1989; the same is pending before the III Metropolitan Magistrate, Cyberabad, L.B.Nagar, Ranga Reddy District; she is presently taking shelter in her parents house; her parents are unable to maintain her; the second respondent is aged 15 months and there is none to take care of the first respondent as well as the second respondent. It is further alleged that the petitioner is working as Junior Officer in DHFL Vysya Housing Finance Limited, Abids, Hyderabad and drawing a salary of Rs.50,000/- per month and he is in a position to maintain the respondents 1 and 2; and therefore, the petition be allowed.

A detailed counter affidavit was filed in the M.C. by the petitioner denying the averments made in the petition. The specific contention of petitioner is that the first respondent is gainfully

employed with M/s.Global Hunt India Private Limited as Recruiter for the previous ten months, is earning salary of Rs.15,000/- per month and so she does not require any maintenance. He further contended that after deducting the necessary expenses, he is able to afford payment of Rs.2,000/- only as maintenance to the second respondent.

While so, the first respondent filed Crl.M.P.No.1505 of 2013 seeking payment of interim maintenance at the rate of Rs.5,000/- to her and Rs.5,000/- to the second respondent during the pendency of the main M.C. This application was also opposed by the petitioner reiterating the stand taken in the counter affidavit filed by him in the M.C.

By order dated 02-12-2014, the Court below allowed Crl.M.P.No.1505 of 2013 granting maintenance at the rate of Rs.4,000/- per month to the first respondent and at Rs.2,000/- to the second respondent from the date of filing of the petition. In the said order, the Court below held that the petitioner admitted the first respondent was his legally wedded wife and the second respondent as his daughter and they are entitled to claim maintenance from him. It held that although the first respondent herein alleged that the petitioner was drawing salary of Rs.50,000/- per month, she did not file any material to prove the same; but since the petitioner himself admitted that he is getting Rs.22,000/- net salary after deductions, after taking into consideration the present day cost of living, a sum of Rs.4,000/- to the first respondent and Rs.2,000/- is granted to the second respondent towards monthly interim maintenance to meet the ends of justice.

Challenging the same, this application is filed under Section 482 Cr.P.C. to set aside the same.

Learned counsel for the petitioner contended that the Court below did not consider the elaborate counter filed by the petitioner in M.C.No.274 of 2013, wherein the petitioner has specifically alleged

that the first respondent is gainfully employed and that the Court below ought to have rejected the claim of the first respondent for maintenance and expeditiously completed the trial of the M.C.

It is not disputed by the counsel for the petitioner that no material insupport of the plea of employment of the first respondent was filed before the Court below in CrI.M.P.No.1505 of 2013. The burden is on the petitioner to establish that the first respondent is gainfully employed and disentitled to maintenance on that ground. Since he did not adduce any evidence in that regard, I am of the opinion that the Court below had rightly awarded reasonable amount of interim maintenance in the impugned order. I, therefore, did not find any reason to interfere with the said order.

Accordingly, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

M.S. RAMACHANDRA RAO, J

30-01-2015,
nvl