

THE HON'BLE MRS JUSTICE ANIS
CRIMINAL PETITION No.9150 of 2012

ORDER:-

Heard both the sides.

This Criminal Petition is filed by the petitioner to quash the order, dated 04-06-2012 passed in CrI. Revision Petition No.14 of 2011 on the file of the II Addl. District and Sessions Judge, Chittor at Madanapalle on the ground that the second respondent filed a Maintenance Case against the petitioner in M.C.No.73 of 2007 on the file of the II Addl. Judicial Magistrate of First Class, Madanapalle, Chittor District seeking maintenance of Rs.5,000/- per month.

On 23-02-2011, the said M.C. was allowed directing the petitioner to pay a sum of Rs.3,000/- per month till R2 attain the age of majority.

Aggrieved by the order of the Magistrate, the petitioner preferred Criminal Revision Petition No.14 of 2011 on the file of the II Addl. District and Sessions Judge, Chittor at Madanapalle. The said revision was allowed, modifying the order of the Magistrate in M.C.No.73 of 2007, wherein directing the petitioner to pay Rs.3,000/- per month from 01-04-2010 to till the 2nd respondent attains the age of majority. Against the said orders, the present petition is filed by the petitioner stating that he was undergone punishment for about three (3) years and now he is ready to take his son along with him as the mother of the 2nd respondent died and the custody of the minor was sought by the grand-father for which is he not entitled to.

When the petitioner is ready to take custody of the minor son question of granting maintenance is unsustainable. Therefore, prayed the Court to quash the order, dated 04-06-2012 passed in CrI. Revision Petition No.14 of 2011.

Now, the point for determination is --

Whether the petitioner is entitled to quash the order, dated 04-06-2012 passed in Criminal Revision Petition No.14 of 2011 as prayed for?

POINT:

Notice sent to the 2nd respondent not yet served. Since there are no adverse orders passed against the 2nd respondent his presence is dispensed with.

Admittedly, a perusal of the record shows that the 2nd respondent filed M.C.No.73 of 2007 under Section 125 of the Cr.P.C. claiming maintenance of Rs.5,000/- per month from his father. After elaborate enquiry, the II Addl. Judicial Magistrate of First Class, Madanapalle passed the orders on 23-02-2011 granting Rs.3,000/- per month as maintenance to the second respondent.

Aggrieved by the orders passed in M.C.No.73 of 2007, the petitioner who is the father of the minor filed Criminal Revision Petition No.14 of 2011. After hearing of both the sides the revision petition was partly allowed modifying the order of the trial Court for payment of maintenance of Rs.3,000/- per month, from 01-04-2010 to till the 2nd respondent attains the age of majority.

Now, the main contention of the petitioner is that he was undergone 3 years punishment in jail, released and wants to take custody of his son and this was not considered by the revision Court and granted maintenance.

It is also argued that the 2nd respondent became major on 20-01-2015 and he is not entitled for maintenance. So far as granting of maintenance to the

2nd respondent is concerned, till his majority i.e., on 20-01-2015 he is entitled for maintenance. If the second respondent attains majority on 20-01-2015, it is for the petitioner to file an application before the trial Court and take appropriate orders for discharge of the same from the Court. Till 20-01-2015 (that is date of attaining majority) the 2nd respondent is entitled for maintenance.

With these observations, the Criminal Petition is disposed of. Miscellaneous Petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE ANIS

April 01, 2015

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