

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.74 OF 2015

ORDER:

The present Criminal Revision Case is filed by the husband under Sections 397 and 401 Cr.P.C., aggrieved by the order dated 05.12.2014 passed in CrI.M.P. No. 1999 of 2014 in M.C. No.2 of 1999 by the Additional Judicial Magistrate of First Class, Kavali, wherein and whereunder the application filed under Section 125(3) Cr.P.C., for recovery of Rs.25,000/- i.e., arrears of maintenance for the period from October 2013 to March 2014 @ Rs.5,000/- per month, was allowed.

The facts in issue are as under :

The respondents 1 and 2 herein filed M.C. No.2 of 1999 against the petitioner herein which was allowed on 27.07.2001 by granting maintenance @ Rs.400/- per month to the first petitioner and Rs.300/- to the second petitioner. Challenging the same, the respondents herein preferred a Revision, which was allowed enhancing the maintenance to Rs.500/- to each of the respondents. The said order has become final. While things stood thus, the husband filed O.P. No.64 of 2013 for divorce, which was dismissed. Challenging the same, the husband filed AAO No.401 of 2006 before this Court. By an order dated 04.10.2010 the said A.A.O. was allowed and the petitioner herein was directed to pay permanent alimony of Rs.2,50,000/- which includes the amount and the cost of the articles given to the first respondent at the time of marriage. The said amount was directed be paid within a period of six months from the date of order and it was further held that the decree of divorce shall come into force only after payment of the amount. Challenging the same, the respondent herein approached the Apex Court by way of filing Civil Appeal No.9165 of 2013. By an order dated 17.10.2013 the Apex Court allowed the appeal, set-aside the judgment dated 04.10.2007 passed by the High Court and restored the judgment of the trial court in dismissing the O.P. Further, the Apex Court directed the petitioner/husband to pay maintenance in favour of wife and son at the rate of Rs.5,000/- per month from October 2013 onwards. The Apex Court also held that arrears of maintenance be paid by the petitioner herein within two months from the date of receipt of copy of the order. The Apex Court also observed that it is open to the appellant to approach the court for withdrawing the amount, if any, deposited with the court. Now, the learned counsel for the petitioner submits that in view of the

orders passed by the Apex court, the petitioner is entitled for return of Rs.2,50,000/- which was deposited in O.P.

The learned counsel for the respondents opposed the same by raising an objection to the claim made. He submits that the order of the Apex Court is silent as to the refund of any amount to the petitioner herein.

The Apex Court while allowing the Civil Appeal observed that it is always open to the first respondent herein to approach the Court for withdrawing the amount, if any deposited in the court. The order is silent with regard to the claim made in this Revision. If the petitioner is entitled to return of any amount, he is at liberty to approach the concerned Court seeking withdrawal of the same in which event the same shall be dealt with in accordance with law.

With the above direction, the Criminal Revision Case is disposed of.

Miscellaneous petitions, pending if any, in this Criminal Revision shall stand closed.

C. PRAVEEN KUMAR, J

Date:20.03.2015

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