

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.695 of 2013

ORDER :

The Criminal Petition is filed by the petitioner under Section 482 Cr.P.C seeking to quash the proceedings in M.C. No.6 of 2011 on the file of Additional Judicial Magistrate of the First Class, Nirmal, Adilabad District in which the trial Court granted maintenance to the 1st respondent for an amount of Rs.3,000/- per month by order dated 29.06.2011. The petitioner impugning the same filed Criminal Revision Petition No.21 of 2011 on the file of I Additional Sessions Judge, Adilabad and the same was dismissed by order dated 03.03.2012.

2) Heard the learned counsel for the petitioner. The criminal petition is coming under the caption 'for dismissal' since 2013 without ordering even notice to the 1st respondent who is petitioner in maintenance case and who is no other than the wife of the quash petitioner. The quash petitioner herein impugning the quantum of maintenance awarded vis-à-vis the liability to pay maintenance since his counter in M.C. No.6 of 2011 before the learned Additional Judicial Magistrate of the First Class at Nirmal of Adilabad District. The learned Magistrate after recording the evidence in the full dressed enquiry with reference to P.Ws 1 to 3 and Exs.A-1 to A-10 and from the oral evidence of respondent/husband as R.W-1, found that there is a negligence and refusal to pay maintenance, having means and the wife is depending on the mercy of her parents and he is getting admittedly about Rs.15,000/- per month, in awarding the maintenance of Rs.3,000/- per month. The unsuccessful petitioner filed a revision before the Court of Session in CrI.R.P. No.21 of 2011 vide order dated 03.03.2012 confirming the order of the learned Magistrate dated 29.06.2011. It is now impugning the orders, he filed the present petition to quash the proceedings awarding the maintenance supra of the Courts below.

3) Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State before admission. Relationship is not in dispute. The contention that wife is getting source of income of Rs.5,000/- per month in a private company, concerned he himself admitted as referred supra by getting more than Rs.15,000/- per month. He did not even produce any record to show his actual salary. The wife contends that his gross salary, as a public servant, is more than Rs.27,000/- per month and filed Ex.P-2 in support of it. Even the learned Magistrate in the order at para No.13, lines 1 to 4 categorically referred the same including of his admission of the gross salary, that is also supported by Ex.P-2 salary certificate and Ex.P-9 statement of the respondent. Besides not proved, even taken for arguments sake of wife got any private employment of getting Rs.5,000/- that is only a matter for consideration in awarding further maintenance and not a ground to negate and there from also with Ex.P-2 and to his evidence confronting as in cross-examination as R.W-1 shows getting Rs.27,000/- per month what the learned Magistrate awarded of Rs.3,000/- confirmed by learned Sessions Judge no way requires to reduce, but for to say very low.

4) Even coming to the other contention of no any neglect or refusal, it is not even his case, muchless to rebut the evidence covered by that of P.Ws 1 to 3 and Ex.P-1 charge sheet against him, that there is no neglect or refusal and what he defended is she filed the criminal case falsely against him, at the instance of her father and there is an elderly settlement by her in the mediation of the dispute from her staying at her parents and she is under influence of her father. In fact that is not even correct for nothing proved muchless by examining by any elder to the settlement and nothing in this regard even elicited from P.Ws 1 to 3 and no document of settlement even filed. Suffice to say, having sufficient means there is a neglect or refusal. Having regard to the above, on merits, there is nothing to admit the petition.

5) In the result, the criminal petition is dismissed. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

24.11.2015

ksh