

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13304 of 2015

ORDER:

_____ This petition is filed under Section 482 Cr.P.C., challenging the orders dated 02.07.2015 in Crl.R.P.No.45 of 2014 on the file of Judge, Family Court–cum-Additional Sessions Judge, Anantapur, wherein and whereby the orders dated 29.04.2014 passed in M.C.No.1 of 2012 on the file of the Court of Judicial First Class Magistrate, Uravakonda of Anantapur District was set aside.

2. The parties will be referred to as they are arrayed before the trial Court to avoid confusion.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

4. The petitioner No.1 is the wife and petitioner No.2 is the daughter of respondent. The petitioners have filed a petition under Section 125 Cr.P.C., in M.C.No.1 of 2012 claiming maintenance of Rs.3,000/- each from the respondent. The respondent filed a counter opposing the claim of the petitioners. During the course of trial, on behalf of the petitioners, P.Ws.1 to 3 were examined and Ex.P1 was marked. On behalf of the respondent, no oral evidence was adduced, but Ex.R1 was marked. Basing on the oral and documentary evidence and other material available on record, the trial Court allowed the petition by awarding maintenance of Rs.1,000/- to the second petitioner and dismissed the petition so far as the first petitioner is concerned. Feeling aggrieved by the orders dated 29.01.2014 in M.C.No.1 of 2012, the petitioners have preferred the Criminal Revision Petition No.45 of 2014 on the file of Judge, Family Court–cum–Additional Sessions Judge,

Anantapur. The learned District Judge, after affording reasonable opportunity to both the parties, allowed the revision petition by granting an amount of Rs.1500/- each to the petitioners. Questioning the said order, the present criminal petition is filed.

5. The contention of the learned counsel for the petitioner herein is two fold:

1. The Courts below failed to consider that the first petitioner has sufficient means to maintain herself, therefore, she is not entitled to claim maintenance, and
2. The respondent never neglected to provide maintenance to the petitioners; on the other hand, the petitioners left the company of the respondent without any ground much less justifiable grounds.

6. Now, the points that arise for consideration are

1. Whether the petitioners are entitled for maintenance, if so, to what amount?
2. Whether the Revisional Court has committed any illegality or irregularity in passing the impugned order?

Point Nos.1 and 2:

7. As both points are interlinked to each other; hence I am inclined to address both points together to avoid recapitulation of facts.

8. It is an admitted fact that the first petitioner is the wife and second petitioner is the daughter of respondent. The first petitioner and respondent have lived together happily for some time. Out of lawful wedlock, they were blessed with a daughter i.e., second petitioner. Unfortunately, some bad weather prevailed in the family life of the first petitioner and the respondent. The main contention of the petitioners is that the respondent willfully and intentionally neglected to provide maintenance to the

petitioners. It is a settled principle of law that there is a social and legal obligation on the part of the husband to provide maintenance to his wife. It is needless to say that minor daughter is entitled to claim maintenance from her father.

9. I have carefully perused the material available on record in order to appreciate the contention of the learned counsel for the respondent. The material placed before the Court clinchingly establishes that the first petitioner has no means to maintain herself. It is not the case of the respondent that the first petitioner is an employee by the time of filing of the petition. The second petitioner is aged about 3 years. It may not be possible for the first petitioner to look after the welfare of the second petitioner without any source of income. It is not the case of the respondent that he is not having any source of income. The material available on record clinchingly establishes that the respondent willfully and intentionally avoided to provide maintenance to the petitioners. The finding of the trial Court that the first petitioner is not entitled to claim maintenance is not supported by any evidence much less legally admissible evidence. The Revisional Court rightly considered various aspects and granted an amount of Rs.1500/- each to the petitioners. Due to steep increase in the prices index, granting of an amount of Rs.1,500/- each to the petitioners is not on higher side. The amount granted by the Revisional Court is hardly sufficient for sustenance of the petitioners.

10. The Revisional Court has assigned cogent and valid reasons while setting aside the order of the trial court. The material placed before the Court clinchingly establishes that the Revisional Court has not committed any illegality or irregularity which warrants interference of this Court. Hence, there are no

grounds in this petition and the same is liable to be dismissed.
Accordingly, the points are answered.

11. Accordingly, the Criminal Petition is dismissed at the stage
of admission. Consequently, Miscellaneous Petitions, if any,
pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date:15.12.2015

Rns