

THE HON'BLE SMT JUSTICE ANIS

CRL.R.C.NO.293 OF 2008

ORDER:

Heard learned counsel for the petitioner and learned counsel for respondents.

The revision petitioner (husband) filed this revision challenging the order, dated 02.11.2006 in Crl.M.P.No.1985 of 2006 in M.C.No.8 of 2005 on the file of the Judicial Magistrate of First Class, Manthani, whereunder and whereby the petition filed under Section 126(2) Cr.P.C. to set aside the exparte order dated 15.02.2006, was dismissed on the ground that the revision petitioner appeared before the Court on two occasions and admitted his relationship with the 1st respondent-wife and children, but, thereafter he failed to appear before the Court. Therefore, due to his non appearance and also his failure to file counter in spite of giving sufficient time and as no prima facie material was placed in proof of his alleged illness.

Learned counsel for the revision petitioner submitted that the petitioner attended the Court on every date of hearing and that only on 07.02.2006, he had not attended the Court due to ill-health, and on that day, he was set ex-parte without considering his request.

On the other hand, learned counsel for respondents vehemently opposed for allowing the application on the ground that the revision petitioner granted sufficient time to file counter, but no counter is filed by him and not contested the maintenance case. Therefore, the trial Court rightly set the revision petitioner ex-parte. It is also argued that the revision petitioner has not filed prima facie material to show that he fell ill on 07.02.2006.

The respondents herein filed the above MC for grant of maintenance @ Rs.2000/- per month each. The revision petitioner

herein made appearance, but no counter is filed. Therefore, the trial Court set the revision petitioner ex-parte and granted monthly maintenance of Rs.1500/- to the 1st petitioner and Rs.750/- each to the 2nd and 3rd petitioners. In the absence of sufficient reason, the ex-parte order cannot be set aside. As the order under challenge does not suffer from any illegality or infirmity so as to call for interference by this Court, hence the revision is devoid of merits and is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed.

The miscellaneous petitions, if any, filed in this petition shall stands closed.

ANIS, J

29.01.2015
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