

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11063 OF 2014

ORDER:

This Criminal Petition is filed by the petitioner under Section 482 Cr.P.C seeking to quash the order dated 20.08.2014 in Criminal Revision Petition No.24 of 2014 passed by the learned Principal Sessions Judge, East Godavari District at Rajahmundry, wherein the learned Sessions Judge confirmed the order dated 15.04.2014 in CrI.M.P.No.1057 of 2012 in M.C.No.23 of 2006 on the file of the Judicial First Class Magistrate, Alamuru.

Heard the learned counsel for the petitioner, learned Public Prosecutor for the State/respondent No.1 and Sri T.V.S.Prabhakara Rao, learned counsel for respondents 2 and 3. Perused the material on record.

The petitioner is the husband/respondent in M.C.No.23 of 2006 and respondents 2 and 3 herein are his wife and minor son, aged about 11 years.

The learned Magistrate vide his judgment dated 28.07.2011 in M.C. awarded monthly maintenance at Rs.3,000/- and Rs.2,000/- to respondents 2 and 3, respectively. Later respondents 2 and 3 sought for enhancement of quantum of maintenance invoking Section

127 Cr.P.C. The learned Magistrate after hearing and on merits vide his order dated 15.04.2014 in CrI.M.P.No.1057 of 2012 in M.C.No.23 of 2006 enhanced the maintenance from Rs.3,000/- p.m to Rs.6,000/- p.m. to the 2nd

respondent and from Rs.2,000/-p.m to Rs.5,000/- p.m. to the 3rd respondent. The contest of respondents 2 and 2 is that the gross salary of petitioner was about Rs.40,000/- p.m.

Impugning the said order dated 15.04.2014, the petitioner herein preferred Criminal Revision Petition No.24 of 2014 on the file of Principal Sessions Judge, East Godavari District at Rajahmundry and the same was ended in dismissal vide order dated 20.08.2014. Aggrieved by the same, the present criminal petition is filed.

It is the contention of the petitioner that there are settled expressions that the maintenance to be granted out of gross salary not exceeding 1/5th. In fact, there are no such yardsticks and even the latest expression of the Supreme Court is very clear that the maintenance to be awarded is not for bare survival but for with affluence the respondent's enjoying equally to that of petitioner. No doubt, the gross salary of the petitioner is Rs.40,000/- and odd. According to the petitioner there are several compulsory deductions, loans he has to pay and he got other obligations also and he is also contributing voluntarily to the academics of his son/3rd respondent.

Having regard to the above and considering material on record, this Court feels that 1/4th of quantum of gross salary is just to award the maintenance, thereby, reducing the maintenance from Rs.11,000/- to Rs.10,000/- p.m. from the date of petition i.e., 01.06.2012. The petitioner is directed to pay all the arrears of maintenance within five

months from today.

With the above directions and modifications, this criminal petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 07-07-2015

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