

**HON'BLE SRI JUSTICE A. SHANKAR
NARAYANA
CRIMINAL PETITION No. 3637 OF 2015**

ORDER:

The instant Criminal Petition is filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') requesting to quash the order, dated 26-03-2015, in Criminal Revision Petition No.35 of 2013, passed by the learned Additional Sessions Judge, Hindupur, confirming the order, dated 28-02-2013, in CrI.M.P. No.180 of 2013 in M.C. No.18 of 2011, passed by the Judicial Magistrate of First Class, Hindupur.

2. The facts, in brief, are that the petitioner herein is husband of the 2nd respondent herein and the 3rd respondent is their daughter. The 2nd and 3rd respondents filed M.C. No.18 of 2011 before the Judicial Magistrate of First Class, Hindupur and also filed Criminal M.P. No.455 of 2011 seeking interim maintenance and, the learned Magistrate, by order, dated 26-04-2012, granted interim maintenance at Rs.2,000/- (Rupees two thousand) per month to the 2nd respondent herein and Rs.1,000/- (Rupees one thousand) per month to the 3rd respondent herein.

i) The petitioner – husband herein filed Criminal M.P. No.180 of 2013 in M.C. No.18 of 2011 under Section 125 (4) (5) read with 127 of the Code to annul the orders passed by the learned Magistrate by which order interim maintenance amounts were awarded.

ii) On hearing both sides, the learned Magistrate finding no merit, dismissed the petition. Aggrieved by the said order, the

petitioner herein filed Criminal Revision Petition No.35 of 2013 before the learned Additional Sessions Judge, Hindupur, and the learned Additional Sessions Judge, by order, dated 26-03-2015, dismissed the revision confirming the order of the learned Magistrate. The petitioner filed the instant petition to quash the said order.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

4. It is stated by the learned counsel for the petitioner that this Court disposed of Criminal Petition No.3611 of 2015 on 28-04-2015, by granting eight (08) weeks time to the petitioner herein to deposit arrears of maintenance, as ordered by the revisional Court till the date of passing the order by that Court and, thus, stated the instant petition may be disposed of on merits.

5. On perusal of the said order, this Court in Criminal Petition No.3611 of 2015 granted eight (08) weeks time to the petitioner herein to deposit arrears of maintenance till 26-03-2015 at Rs.2,000/- per month and Rs.1,000/- per month to the 2nd respondent and 3rd respondent herein, respectively, by confirming the order, dated 26-03-2015, passed by the revisional Court in Criminal Revision Petition No.28 of 2014 which has confirmed the order, dated 04-04-2014, passed by the learned Magistrate in CrI.M.P. No.2281 of 2012 filed under Section 125 (3) of the Code by the 2nd and 3rd respondents for enforcement of the order by which interim maintenance was granted in Criminal M.P. No.455 of 2011.

6. It is, no doubt true, the learned counsel for the petitioner referred to a photostat copy of agreement which is in Kannada

Language contending that the petitioner herein and the 2nd respondent, through intervention of elders, got separated and, therefore, the very maintenance case filed by the 2nd and 3rd respondents herein is not maintainable. While adverting to the said contention in Criminal Petition No.3611 of 2015, this Court left that submission untouched. Since, it is open for the petitioner herein to agitate the same before the Court of first instance, no merit is to be found in the instant petition at this stage. Hence, the petition stands dismissed. However, it is observed that the learned Magistrate shall dispose of the maintenance case uninfluenced by the observations, if any, made by this Court.

7. Accordingly, the Criminal Petition is dismissed.

8. As a sequel thereto, miscellaneous petitions, if any, pending in this Criminal Petition, stand disposed of.

A. SHANKAR NARAYANA, J

April 29, 2015.

Mgr