

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE Nos.295, 296 and 304 of 2014

-

COMMON ORDER:

-

1. Crl.R.C.No.295 of 2014 is filed by the petitioner against the order dated 10.2.2014 passed in Crl.M.P.No.25 of 2013; and Crl.R.C.No.296 of 2014 is filed against the order dated 10.2.2014 passed in Crl.M.P.No.48 of 2013; and Crl.R.C.No.304 of 2014 is filed against the order dated 10.2.2014 passed in Crl.M.P.No.144 of 2013 in M.C.No.33 of 2003 by the Family Court-cum-V Additional District Judge, Tirupathi.

2 The 2nd respondent, who is the wife of the petitioner in the above revisions, filed the above M.C. on her behalf and on behalf of her children, who are respondents 3 and 4 herein, claiming maintenance. After fullfledged trial, the trial Court granted an amount of Rs.3,000/- per month towards maintenance to the 2nd respondent and Rs.1,500/- per month to each of respondents 3 and 4, vide order dated 4.4.2005. As the petitioner failed to comply with the order of the trial Court for the period from 2.2.2011 to 1.2.2012, the 2nd respondent filed the Crl.M.P.No.25 of 2013 for attachment of the salary of the petitioner to realize Rs.69,000/- towards the arrears of maintenance. The trial Court allowed the said Crl.M.P. by attaching the salary of the petitioner to an amount of Rs.69,000/-. Aggrieved by the same, the petitioner filed Crl.R.C.No.295 of 2014.

3. Further, the petitioner failed to comply with the order of the trial Court during the period from 2.2.2012 to 1.2.2013. Hence, the 2nd respondent filed Crl.M.P.No.48 of 2013 for issuance of warrant of arrest against the petitioner for recovery of arrears of maintenance of Rs.72,000/- for a period of 12 months from 2.2.2012 to 1.2.2013 at the rate of Rs.6,000/- p.m. The trial Court ordered issuance of arrest

warrant against the petitioner by order dated 10.2.2014. Aggrieved by the same, the petitioner filed Crl.R.C.No.296 of 2014.

4. The 2nd respondent filed Crl.M.P.No.33 of 2010 for enhancement of maintenance and the said petition was allowed on 23.11.2012 by enhancing the maintenance amount of the 2nd respondent from Rs.3,000/- to Rs.4,000/- per month and the maintenance amount of respondents 3 and 4 from Rs.1,500/- each per month to Rs.2,000/- per month each from the date of filing of the petition. The petitioner filed the above Crl.M.P.No.144 of 2013 under Section 127 Cr.P.C. stating that the 2nd respondent is capable of maintaining herself and she is an employee and she is drawing salary every month. The said Crl.M.P. was dismissed by the trial Court. Hence, the petitioner filed Crl.R.C.No.304 of 2014.

5. Even though notice was served, none appeared on behalf of respondents 2 to 4.

6. It is the grievance of the petitioner that the petitioner is paying an amount of Rs.18,000/- every month including the arrears of maintenance under attachment order impugned in Crl.R.C.No.295 of 2014 and due to salary attachments, the petitioner could not pay the maintenance for the period from 2.2.2012 to 1.2.2013, and on the application filed by his wife, arrest warrant was issued against him.

He further submitted that the 2nd respondent is capable of maintaining herself and therefore, she is not entitled for maintenance. Except making a bald statement that the 2nd respondent is capable of maintaining herself, the petitioner has not filed any material to substantiate the same. The learned Counsel for the petitioner also filed a statement furnishing the details of arrears of maintenance payable as on today to the 2nd respondent and her children. Since the petitioner approached this Court against the attachment order and the

issuance of arrest warrant for non-payment of maintenance for a particular period, this Court is inclined to pass the following order:

i) The petitioner is directed to pay the arrears of maintenance payable by him to his children-respondents 3 and 4 for the periods from 2.2.2011 to 1.2.2012 and 2.2.2012 to 1.2.2013, in six monthly instalments from the date of receipt of a copy of this order. It is made clear that the arrear amount paid if any, shall be deducted.

ii) The monthly maintenance of the 2nd respondent-wife enhanced by the trial Court from Rs.3,000/- to Rs.4,000/- is reduced to that of Rs.3,000/- per month. The petitioner is directed to pay the arrears of maintenance to his wife calculating at the rate of Rs.3,000/- per month for the periods from 2.2.2011 to 1.2.2012 and 2.2.2012 to 1.2.2013, in six monthly instalments from the date of receipt of a copy of this order, and continue to pay the monthly maintenance at the rate of Rs.3,000/- per month. It is made clear that the arrear amount paid, if any, shall be deducted.

iii) The arrest warrant issued by the trial Court against the petitioner vide order dated 10.2.2014 in CrI.M.P.No.48 of 2013 is recalled.

iv) If the petitioner fails to pay the arrears of maintenance as stated above, the respondents 2 to 4 are at liberty to avail the remedies that are available under law.

7. Accordingly, the Criminal Revision Cases are disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 23.11.2015

Nn

THE HONOURABLE SRI JUSTICE RAJA ELANGO

-
-
-
-
-
-
-
-
-
-
-

CRIMINAL REVISION CASE Nos.295, 296 and 304 of 2014

-
-
-
-

23.11.2015

Nn