

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6879 of 2015

ORDER:

1. This petition is filed under Section 482 Cr.P.C. challenging the docket order dated 22.06.2015 passed in CrI.M.P.No.129 of 2015 in M.C.No.175 of 2014 on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar.

2. Heard Sri Venkateswarlu Sanisetty, learned Counsel for the petitioner, the learned Public Prosecutor representing the 1st respondent/State of Telangana and Sri M.Rama Rao, learned Counsel for the 2nd respondent.

3. Petitioner herein is the husband of the 2nd respondent herein. A perusal of the record reveals that the second respondent/wife filed M.C.No.175 of 2014 claiming monthly maintenance of Rs.40,000/- from the petitioner/husband. During the pendency of the said Maintenance Case, the 2nd respondent/wife also filed the aforesaid CrI.M.P.No.129 of 2015 seeking interim maintenance of Rs.40,000/- per month from the petitioner/husband. The trial Court, by order dated 22.06.2015, passed the following docket order:

“Both side present. Heard both side. The respondent present in the Court stated that he is a diabetic patient and earns nothing, yet he took out a bundle of cash to pay costs of Rs.200/- in the maintenance petition and when the Court questioned,

how much is the cash in his hand, he said it is Rs.9,000/- and the petitioner stated that the respondent is having a factory of his own.

Hence, the fact that the respondent came to the Court with cash of Rs.9,000/- which he casually took from his pocket shows that the respondent is capable to pay interim maintenance.

Hence, respondent is directed to pay Rs.10,000/- per month from the date of the order towards maintenance till disposal of Maintenance Case and the same is payable by 10th of every month.”

4. A perusal of the aforesaid order, which is *ex facie* cryptic in nature, would disclose that the trial Court is of the opinion that the petitioner/husband came to the Court with cash of Rs.9,000/- and hence he is having financial capacity to pay interim maintenance. Merely because the petitioner/husband has come to the Court below with cash in his pocket, it cannot be said that he is having financial capacity to pay the interim maintenance. The trial Court, without affording an opportunity to the petitioner/husband and without examining the merits of the case, granted interim maintenance of Rs.10,000/- per month to the 2nd respondent/wife. The view taken by the trial Court is clearly untenable and erroneous. Therefore, there is absolutely no justification for the trial Court in directing the petitioner/husband to pay interim maintenance of Rs.10,000/- to the 2nd respondent/wife without assigning any reasons. In that view of the matter, the impugned

order is liable to be set aside.

5. Accordingly, the Criminal Petition is allowed and the impugned order dated 22.06.2015 passed in Crl.M.P.No.129 of 2015 is set aside. The trial Court is directed to dispose of Crl.M.P.No.129 of 2015 in M.C.No.175 of 2014, on merits, after affording an opportunity to both parties, within a period of one month from the date of receipt of a copy of this order. Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 28th December, 2015

Gsn