

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No. 3611 OF 2015

ORDER:

The instant Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by the petitioner requesting to quash the order, dated 26-03-2015, in Criminal Revision Petition No.28 of 2014 passed by the learned Additional Sessions Judge, Hindupur to the extent of imposing the condition that the petitioner shall deposit the arrears of interim maintenance amount into trial Court till date.

2. As seen from the material on record, respondent Nos.2 and 3 herein, who are petitioners in M.C. No.18 of 2011 on the file of the Judicial Magistrate of First Class, Hindupur, Anantapur District, filed Criminal M.P. No.455 of 2011 seeking interim maintenance, and the learned Magistrate granted interim maintenance at Rs.2,000/-(Rupees two thousand) per month to the 2nd respondent and Rs.1,000/-(Rupees one thousand) per month to the 3rd respondent herein, who are wife and daughter, respectively, of the petitioner herein. Subsequently, the 2nd and 3rd respondents filed Crl.M.P. No.2281 of 2012 under Section 125 (3) of the Code for enforcement of the order by which interim maintenance was granted, referred to in the above. The learned Magistrate, therefore, by order, dated 04-04-2014, while dismissing the petition filed on behalf of the petitioner under Section 317 of the Code, issued Non-bailable Warrant against the petitioner herein on payment of process and directed to post the matter on 02-05-2014.

3. The aforesaid order, dated 04-04-2014, was challenged by the petitioner herein in Criminal Revision Petition No.28 of 2014 before the Additional Sessions Judge, Hindupur. While allowing the said Criminal Revision on 26-03-2015, the learned Additional Sessions Judge, Hindupur imposed a condition that

the petitioner herein shall deposit the arrears of interim maintenance amount into trial Court till that date, within one month from the date of said order i.e. 26-03-2015.

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

5. The learned counsel for the petitioner submits that there was an agreement between the parties, the true translation copy of which is filed and also the Photostat copy of agreement which is in Canarese language, by which, the 2nd respondent, wife of the petitioner, left the house of the petitioner and, therefore, it is according to the learned counsel that the very maintenance case is not maintainable and, consequently, the order passed by the learned Magistrate and the order passed by the learned Additional Sessions Judge, Hindupur to the extent of directing the petitioner herein to deposit the arrears of maintenance are also not sustainable.

6 . Concerning the memorandum of understanding, at this stage, the genuineness or otherwise thereof, cannot be looked into as the same has to be confronted to the parties during the course of recording the evidence that would be led by the parties in the maintenance case. So, leaving it untouched, the petitioner herein is directed to deposit half of the arrears of maintenance amount to the credit of the said maintenance case before the learned Magistrate within four (04) weeks from today and the remaining half within four (04) weeks thereafter. The non-bailable warrant issued by the learned Magistrate against the petitioner herein shall not be executed till expiry of eight (08) weeks. In case, failure to comply with the direction of this Court, the non-bailable warrant will revive.

7. With the above direction, the Criminal Petition is disposed of.

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

A. SHANKAR NARAYANA, J

April 28, 2015.

Note:

Furnish Copy of order by

Tomorrow i.e., 29-04-2015

(B/o)

Mgr