

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.13596 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the order dated 27.07.2016 in CrI.M.P.No.1073 of 2016 in M.C.No.27 of 2016 on the file of the Court of Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Cases – Cum – Additional Family Court – cum – IX Metropolitan Sessions Judge, Hyderabad granting interim maintenance of Rs.10,000/- per month to the respondent No.1 and Rs.5,000/- per month to the respondent No.2 during pendency of the Maintenance Case.

The case of the respondent No.1 herein is that she is legally wedded wife of the petitioner herein and their marriage was performed on 10.10.2014 as per Muslim rituals and their marriage was consummated, later they were blessed with respondent No.2.

The petitioner maintaining a dairy farm and doing business of purchase and sale of two wheelers besides book binding business, earning an amount of Rs.80,000/- per month and possessed a house for his shelter, but the petitioner neglected to maintain the respondent Nos.1 and 2, who are legally wedded wife and daughter and refused to pay anything towards maintenance at least to lead ordinary life and sought for maintenance as she had no means to maintain herself as such filed the main case.

During pendency of the main petition before the Judge, Family Court, the respondent No.1 filed a petition under

Section 125 of Cr.P.C. for grant of interim maintenance. The only contention before this Court is that petitioner filed four (4) documents before the Judge, Family Court and the petitioner is suffering from mental disorder undergoing treatment in the hospital. But the trial Court did not mark those documents on behalf of the petitioner and even without any material to establish the income of the petitioner, the Judge, Family Court granted maintenance excessively to respondent Nos.1 and 2 i.e. wife and daughter of the petitioner and prayed to set aside the order under challenge.

As seen from the material available before this Court, it is evident that the trial Court did not mark any document allegedly produced by the petitioner as exhibits while passing the order and did not even refer any documents filed by him. The Judge, Family Court based on the affidavit of the respondent No.1, awarded interim maintenance believing her version regarding the source of income of the petitioner herein, whereas the respondent No.1 did not possess any independent source of income to lead life and it is the case of the petitioner herein that the respondent No.1 possessed sufficient means to maintain herself. Therefore, grant of maintenance by the trial Court at Rs.10,000/- per month to the respondent No.1 – wife and Rs.5,000/- per month to the respondent No.2 – daughter considering the price index and standard of living of the petitioner, is not excessive since the wife and child of the petitioner are supposed to maintain the same standard of living, which the petitioner is maintaining.

It is clear from the material available on record that the petitioner did not assert anything that the respondent Nos.1 and 2 are having independent source of income and shelter for their residence. In the absence of any residence for herself and her child, she is bound to incur certain amount towards rent besides food, clothing and maintenance including education of the child. In such circumstances, the maintenance awarded by the Judge, Family Court cannot said to be excessive or exorbitant. Therefore, I find no ground to interfere with the order passed by the trial Court. However, considering the facts and circumstances of the case, I deem it appropriate to direct the Judge, Family Court to decide the M.C.No.27 of 2016 as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this Order.

Accordingly, the petition is disposed of. Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case – Cum – Additional Family Court – cum – IX Metropolitan Sessions Judge, Hyderabad is directed to decide the M.C.No.27 of 2016 as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this Order. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:03.11.2016
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