

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15458 OF 2016

ORDER:

This criminal petition, under Section 482 of Criminal Procedure Code, 1973, is filed by the petitioner challenging the order dated 24.08.2016 in CrI.M.P. No.3690 of 2016 in M.C. No.6 of 2016, passed by the Additional Judicial Magistrate of First Class, Markapur, wherein the learned Magistrate granted interim maintenance of Rs.10,000/- per month to the first respondent herein, during pendency of the MC.

It is an undisputed fact that the marriage of the petitioner and the first respondent was performed on 23.05.2013, they lived happily for some time, but they were not blessed with any children. It is the case of the first respondent that at the time of marriage, the petitioner was presented with cash Rs.5,00,000/- and 8 tulas of gold towards dowry, and later she was demanded additional dowry and for her failure to meet illegal demand, the petitioner started harassing her, beat her indiscriminately, even not providing food, and subjected her to unbearable torture. Thereafter, having no other alternative, she went to her parents house on 11.04.2015 and staying with them at their mercy.

The first respondent also lodged a complaint for the offence punishable under Section 498-A IPC the same was registered as a case in Cr.No.105 of 2015 due to unbearable harassment in the hands of the petitioner, for her failure to meet the illegal demand.

It is the case of first respondent that the petitioner is working as SGT teacher, earning Rs.30,000/- per month and he

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possessed a house worth of Rs.10,00,000/- and two house plots worth of Rs.10,00,000/- and that the first respondent has no means to maintain herself independently and that she was deserted and neglected by the petitioner without any reasonable justification or cause. Therefore, sought for interim maintenance of Rs.10,000/- per month, while claiming Rs.17,000/- towards monthly maintenance in the MC.

The petitioner filed counter in the MC denying the material allegations of the petition *inter alia* contending that the first respondent is a B.Ed. graduate, working as a teacher in a private school at Bestavaripeta, earning Rs.8,000/- per month, and her father and brothers are financially sound and the first respondent and her mother are own and possessed immovable property in Petakayagulla, Bestavaripeta, Prakasam District in S.Nos.428-B2-2, 1161-2C, 1161-2D, 328-1C, 328-2C at Ongole. It is also contended that his mother is suffering with Urethral stenosis with mild renal failure and he has to meet the medical expenses and was spending nearly Rs.20,000/- per month towards medical expenses of her mother and thereby, the first respondent is not entitled to claim interim maintenance and prayed for dismissal of the petition.

During enquiry, no oral or documentary evidence is produced before the trial court, but based on the argument advanced by both the counsel, the respondent before the trial court awarded interim maintenance, having concluded that the petitioner herein is earning Rs.35,000/- per month as salary while working as Secondary Grade Teacher and whereas the

respondent herein has no independent source of income to meet her expenses for her livelihood, and that mere possessing property by her mother is no use and disbelieved the earnings of the first respondent.

Now the contention of the petitioner before this court is that the first respondent herein is able to maintain herself while working as teacher and earning Rs.8,000/- per month and that apart award of interim maintenance Rs.10,000/- per month is excessive, in view of the circumstances stated by the petitioner regarding financial status, mother's ill health, it is difficult for him to pay such huge amount and prayed to set aside the order.

At the stage of hearing, counsel for the petitioner reiterated the similar contentions raised before the trial court.

Admittedly, the petitioner and first respondent are husband and wife and their marriage was performed on 23.05.2013, and it is also an admitted fact that they are living separately and the first respondent is living with her parents. It is specifically alleged that the cause for the first respondent separate living from the petitioner is that she was subjected to cruelty even without providing food for her living, though the petitioner is working as teacher, having sufficient means to provide food, clothing, etc., to the first respondent.

Those facts have to be established only during trial and that the first respondent admittedly living separately due to subjecting her to cruelty for her failure to meet the illegal demand of the petitioner, granting interim maintenance cannot be found fault.

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The other ground urged before this court is that the first respondent is working as a teacher in private school, at Bestavaripeta, earning Rs,8,000/- per month, but no piece of evidence is produced before the trial court to accept this contention and in the absence of any material, it is difficult for me to believe that the first respondent possessed independent source of income to maintain herself, while working as a teacher. Therefore, the trial court rightly disbelieved specific contention.

The last ground urged before this court is that the mother of the petitioner is suffering with Urethral stenosis with mild renal failure, for which he has to incur Rs.20,000/- per month. But no medical certificate is produced, however, when the petitioner feeling responsible to meet the medical expenses of his mother, he is equally responsible to maintain his wife and the first respondent is expected to lead same standard of life, which the petitioner is leading being a teacher, own and possessed huge property. Taking into consideration of the present cost of living and price index, granting Rs.10,000/- per month towards interim maintenance is not excessive.

Therefore, I find no ground to set aside the order passed by the trial court in CrI.M.P. No.3690 of 2016 in M.C. No.6 of 2016 and consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed, at the stage of admission, affirming the Order dated 24.08.2016 in CrI.M.P. No.3690 of 2016 in M.C. No.6 of 2016 passed by the Additional Judicial Magistrate of First Class, Markapur.

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Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 31.10.2016
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