

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.14588 of 2014

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. challenging the order dated 17-10-2014 in CrI.R.P.No.82 of 2013 passed by the learned II Additional Sessions Judge, Adoni, Kurnool, confirming the order dated 16-07-2013 in M.C.No.12 of 2009 passed by the Judicial First Class Magistrate, Adoni, Kurnool, whereby maintenance was granted at Rs.5,000/- each to the petitioners therein with a direction to the respondent therein to pay maintenance on or before 10th of every succeeding month including arrears of maintenance payable on or before 01-10-2013.

Heard the learned counsel for the petitioner and the learned counsel for the respondents 2 and 3.

The case of the petitioner is that the respondents 2 and 3 herein are the wife and son of the petitioner herein and they filed M.C.No.12 of 2009 against the petitioner herein, who is respondent in the maintenance case, seeking to grant maintenance at Rs.5000/- to each of the petitioners and the learned Magistrate, after a due enquiry, allowed the petition granting maintenance at Rs.5,000/- to each of the petitioners from the date of petition with a direction to pay the maintenance on or before 10th of every succeeding month including arrears of maintenance, if any, on or before 1-10-2013. Challenging the said orders, the respondent-husband filed CrI.R.P.No.82 of 2013 before the II Additional Sessions Judge, Kurnool at Adoni and the learned Sessions Judge, after appreciating the material on record and the order of the Magistrate, dismissed the revision petition confirming the order

under challenge. Aggrieved by the said order, the present criminal petition is filed.

The main grievance of the petitioner is that even though he is liable to pay maintenance granted by the trial Court, he is not in a position to pay the same since he is drawing salary at Rs.10,000/- having no other sources of income, for which the learned counsel for the respondents vehemently contended that the petitioner did not pay any maintenance as ordered by the trial Court and he is in huge arrears of maintenance, due to which warrant for recovery of the said amount is also pending.

At this stage, the learned counsel for the petitioner fairly stated that if the petitioner is granted some time, he will deposit entire arrears of maintenance in equal monthly instalments within a period of six months and he further stated that he is not intending to avoid to pay maintenance, but due to financial crisis, he could not able to pay the same and prayed the Court to reduce the maintenance as granted by the trial Court insofar as the 2nd respondent-wife is concerned and he is also ready to pay the amount as ordered by the trial Court to the 3rd respondent-son.

Considering the rival contentions and submissions of both the parties, this Court is of the view that interest of justice would be better served if the petitioner-husband can be directed with appropriate directions.

Therefore, the petitioner-husband is directed to pay maintenance at Rs.2,500/- per month to the 2nd respondent-wife and also Rs.5,000/- per month to the 3rd respondent-son on or before 10th of every succeeding month. He is also directed to pay arrears of maintenance calculating at Rs.7,500/- per month to the

respondents 2 and 3 in six equal monthly instalments commencing from the month of May, 2016. However, it is made clear that in the event of failure on the part of the petitioner-husband to pay either maintenance or arrears of maintenance as ordered above, the trial Court is always at liberty to take recourse to issuance of warrants for recovery of such amount in accordance with law.

With the above direction, the Criminal Petition is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 31-03-2016

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