

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION No.8113 OF 2013

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the revision petitioner, questioning the order dated 18.03.2013 in CrI.R.P.No.13 of 2013 of the learned VI Additional Sessions Judge (Fast Track Court), Anantapur at Gooty, whereunder, the order dated 30.01.2013 in M.C.No.24 of 2010 passed by the learned Judicial Magistrate of First Class, Guntakal, granting maintenance of Rs.5,000/- to the 2nd respondent herein, who is minor son of the petitioner, represented by his mother as guardian, who is no other than wife of the revision petitioner, was confirmed.

2. One of the contentions of the revision petitioner before the trial Court in M.C.No.24 of 2010 vis-à-vis in the revision is that the mother of the minor, no other than his wife, is a permanent bank employee and she is getting about Rs.30,000/- p.m. and thereby, he is not liable to pay the maintenance.

3. Primarily, the petitioner is father of the minor child who is bound to maintain him, leave about the differences between himself and his wife including the pending of criminal cases viz.,crime No.79 of 2009 of Kasapuram Police Station and other matrimonial disputes. He claims that he is drawing a salary of Rs.25,000/- p.m. as

Assistant Executive Engineer in the Irrigation Department, Veligodu Division-I, Kurnool District. He did not exhibit his salary certificate, though it is his burden to produce the same by with-holding the best evidence to draw inference against him under Section 106 of the Evidence Act while contending that the mother of minor boy is a bank employee drawing Rs.30,000/- p.m., for his saying he is drawing only Rs.25,000/- p.m. even taken the same what is his contest before the learned Magistrate in the main M.C. the relationship is not in dispute and to claim he was getting only Rs.16,000/- net salary as referred supra he did not file salary certificate even he admitted in his cross examination. When such is the case, when the father is the main person to maintain the minor child under Section 125 Cr.P.C. and there is nothing to interfere with, from the quantum of Rs.5000/-p.m. awarded in M.C. which is confirmed in revision to sit against by invoking the inherent powers under Section 482 Cr.P.C.

Accordingly and in the result, this criminal petition is dismissed for no merits to interfere.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03-02-2016

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