

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.2216 of 2015

ORDER:

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1. This Criminal Petition is filed by the petitioner aggrieved by the order dated 9.2.2015 passed in CrI.R.P.No.70 of 2014 on the file of the III Additional District Judge, Bhimavaram.

2. The 1st respondent, who is the wife of the petitioner, filed M.C. No.26 of 2012 before the II Additional Judicial First Class Magistrate, Bhimavaram on her behalf and on behalf of her son against the petitioner, claiming maintenance. The trial Court allowed the above M.C. in part directing the petitioner herein to pay monthly maintenance of Rs.4,000/- per month to each of respondents 1 and 2 from the date of the order. Aggrieved by the same, the petitioner filed the above CrI.R.P. before the III Additional District Judge, Bhimavaram. The learned Additional District Judge allowed the petition in part reducing the maintenance granted by the trial Court to that of Rs.2,000/- per month to each of respondents 1 and 2. Aggrieved over the same, the petitioner filed this petition.

3. Learned Counsel for the petitioner submitted that due to differences between the petitioner and respondent No.1, they approached the Family Court, Hyderabad by way of filing HMOP No.700 of 1998 for mutual divorce and that as per the terms and conditions, the petitioner paid permanent alimony to respondents 1 and 2 and therefore, they are not entitled to any maintenance and that the Courts below failed to consider these aspects and that the maintenance granted by the learned Additional District Judge is excessive.

4. There is no dispute as to the relationship between the parties. The grounds raised by the petitioner were already considered by the

Courts below. Considering all the grounds raised by the petitioner and the earning capacity of the petitioner, the learned Additional District Judge reduced the maintenance granted by the trial Court to that of Rs.2,000/- p.m., to each of respondents 1 and 2. This Court does not find any ground to interfere with the order passed by the learned Additional District Judge. However, considering the submission made by the learned Counsel for the petitioner that the petitioner is doing private job in a rice mill and he is not in a position to pay the said amount, this Court is inclined to pass the following order:

I) The petitioner is directed to pay Rs.2,000/- per month to the 1st respondent and Rs.1,000/- per month to the 2nd respondent towards maintenance on or before 10th of every succeeding month.

II) The petitioner is directed to pay the arrears of maintenance at the rate fixed by this Court from the date of order of the trial Court in M.C.No.26 of 2012 on the file of the II Additional Judicial First Class Magistrate, Bhimavaram, within a period of three months from the date of receipt of a copy of this order;

5. Accordingly, the Criminal Petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 30th March, 2016

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