

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.11259 of 2016

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioner to quash the order dated 30.05.2016 in CrI.M.P.No.479 of 2016 in M.C.No.39 of 2016 passed by the Additional Metropolitan Sessions Judge for trial of JHCBBC-cum-Additional Family Court-cum-IX Additional Metropolitan Sessions Judge, Hyderabad (for brevity "the Court below").

2. The petitioner is the husband of respondent No.1 and father of respondent No.2. The factum of marriage between the petitioner and respondent No.1 and the birth of respondent No.2 – daughter to them is not in dispute. Respondent Nos.1 and 2 filed M.C.No.39 of 2016 under Section 125 Cr.P.C., before the Court below for grant of interim monthly maintenance of Rs.15,000/- to respondent No.1 and Rs.20,000/- to respondent No.2 towards hospital and medical expenses etc., alleging that she has no means to maintain herself and respondent No.2, whereas the petitioner, being the husband of respondent No.1 and the father of respondent No.2, possessed sufficient means and having deposits in various Banks to maintain them, however, he is refusing and avoiding to maintain them.

3. The petitioner filed a lengthy counter in M.C.No.39 of 2016 raising several contentions, one of the said contentions being that respondent No.1 worked as HR Incharge in Dr. Pawan's Educational Institution, which is opp: Chiranjeevi Blood Bank, Jubilee Hills, Hyderabad, therefore, respondent No.1 herself has to maintain respondent No.2. He also pleaded that he is having 87% disability and did not possess any means to maintain respondent Nos.1 and 2 and hence, prayed to dismiss the petition.

4. Upon hearing the argument of both the counsel, the Court below, by order dated 30.05.2016, awarded an amount of Rs.7,500/- to respondent No.1 and Rs.4,000/- to respondent No.2 towards interim maintenance per month during the pendency of M.C.No.39 of 2016.

5. Aggrieved by the same, the present Criminal Petition is filed by the petitioner raising several contentions, more particularly that respondent No.1 is possessing sufficient means to maintain herself and respondent No.2, as respondent No.1 is working as Front Office Executive in the HANS INDIA, a Media House, situated at Dr. A.S. Rao Nagar, ECIL, Hyderabad, earning Rs.20,000/- per month, besides possessing, both movable and immovable property, vide document bearing No.3932 of 2013, dated 13.05.2013, registered with O/o. Sub-Registrar, Kamareddy. It is also

contended that he is suffering from 87% disability and drawing a disability pension of Rs.1,500/- per month and apart from pension, he is working as Salesman in Internet and Recharge shop, earning Rs.3,000/- per month and hence, granting interim maintenance of Rs.7,500/- and Rs.4,000/- per month to respondent Nos.1 and 2, respectively, is highly excessive and hence prayed to set aside the said order dated 30.05.2016.

6. During the course of hearing, learned counsel for the petitioner mainly drawn the attention of this Court to the I.D. Card produced before this Court, for the first time, to establish the fact that respondent No.1 is working as Front Office Executive in the HANS INDIA and also possessed sufficient means to maintain herself and respondent No.2. It is also contended that the petitioner is a handicapped person with 87% disability and thereby he did not possess any means to maintain respondent Nos.1 and 2 and totally dependent on the disability pension and income received as a Salesman in Internet and Recharge shop and, in those circumstances, the impugned order, awarding the aforesaid amount towards interim maintenance to respondent Nos.1 and 2 is liable to be set aside.

7. Heard learned counsel for the petitioner as well as the learned counsel for respondent Nos.1 and 2 and perused the material on record.

8. Before the Court below, the petitioner, though raised several contentions regarding the means possessed by respondent No.1, having worked as HR Incharge in Dr. Pawan's Educational Institution, no piece of evidence was brought on record to substantiate the fact that she worked and able to work and earn for her livelihood. On the other hand, a different story is invented now, contending that respondent No.1 is working as Front Office Executive in the HANS INDIA and in order to substantiate the same, learned counsel for the petitioner has produced a Photostat copy of I.D. Card of respondent No.1 issued by HANS INDIA to establish that respondent No.1 is working as Front Office Executive and earning sufficient income to maintain herself and also respondent No.2 – daughter. But, such a plea was not raised before the Court below and it is not their case that subsequent to passing of the impugned order, respondent No.1 joined the services of the said Firm. For the first time, such a material was brought on record and sought to set aside the impugned order. If I.D. card of respondent No.1 is excluded from consideration, there is absolutely nothing on record to establish the fact that respondent No.1 is earning any amount for her livelihood. Even the said I.D. Card does not disclose the income of respondent No.1. Therefore, basing on the plea raised by the petitioner, for the first time, in this

petition, this Court cannot set aside the order under challenge.

9. Further, respondent No.2 is none other than the daughter of the petitioner and respondent No.1, who borne during their wedlock, therefore, the petitioner is bound to maintain respondent No.2 – daughter and respondent No.2 is entitled to claim maintenance from the petitioner – father during her minority or till her marriage, however, subject to satisfying the other conditions. Therefore, the petitioner cannot deny maintenance to respondent No.2.

10. Further, the jurisdiction of this Court under Section 482 Cr.P.C., is very limited. If the impugned order is perverse and not supported by any reasons, this Court can exercise its power and quash the same.

11. In the present case, no material is placed on record pointing out any illegality in the impugned order passed by the Court below and, moreover, it is only an interim order granting interim maintenance to respondent Nos.1 and 2.

12. So far as the quantum of maintenance is concerned, the contention of respondent Nos.1 and 2 is that the petitioner is a rich man, though disabled, and also earning substantial amount, which is not supported by any material. In the counter filed by the petitioner before the Court below in Crl.M.P.No.479 of 2016 in M.C.No.39 of 2016, though, he

denied the deposits being possessed by him, no evidence is produced by either of the parties in support of their contentions.

13. In those circumstances, taking into consideration the present price index and cost of living, the amount awarded by the Court below is not sufficient to meet the needs of a married woman and the child, who is suffering from intestine problem. Therefore, the interim maintenance awarded by the Court below is just and reasonable, as respondent Nos.1 and 2 are expected to lead the same standard of life, which the petitioner is leading.

14. Therefore, I find no reason to reduce the interim maintenance awarded by the Court below, however, in view of the difficulty expressed by the petitioner, I deem it appropriate to direct the Court below to decide M.C.No.39 of 2016, as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order. The observations made, if any, in this order will have no bearing on the final disposal of M.C.No.39 of 2016 and the Court below is directed to decide the same uninfluenced by any of the observations made hereinabove.

15. With the above direction, this Criminal Petition is disposed of.

16. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

07.12.2016.
Msr



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Msr