

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15500 OF 2016

ORDER:

This criminal petition, under Section 482 of Criminal procedure Code, 1973 (for short, 'Cr.P.C.') is filed to quash the proceedings and dismiss the claim of the first respondent in M.C. No.64 of 2013 pending before the Judge, Family Court, Nizamabad.

The respondents 1 to 3 are the wife and children of the petitioner. They filed a petition under Section 125 Cr.P.C. claiming maintenance at Rs.10,000/- per month to the first respondent and Rs.5,000/- each to the petitioners 2 and 3 alleging that they were neglected and failed to provide necessary maintenance for their livelihood.

The present petition is filed on two grounds, one is that the first respondent is living in adultery and the other ground is that the first respondent subjected her husband to cruelty.

Undoubtedly, the first respondent is the wife and respondents 2 and 3 are the daughters and the ground i.e. living in adultery by the first respondent is a question of fact, which has to be decided based on evidence during trial before the Judge, Family court, by adducing evidence, and since it is a disputed question of fact it is not a ground to quash the proceedings in MC No.64 of 2013 pending before the Judge, Family court, while exercising jurisdiction under Section 482 Cr.P.C.

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The other ground urged before this court is that the petitioner was subjected to cruelty by his wife, the first respondent. This is also a question of disputed fact which has to be established by adducing evidence. Therefore, it is not a ground.

Respondents 2 and 3 are the children of petitioner and the first respondent, born during wed lock, and the petitioner is under legal obligation to provide maintenance to the respondents 2 and 3, but the petitioner denied to maintain the respondents 2 and 3. The petition cannot be ordered while quashing the in MC while exercising jurisdiction under section 482 Cr.P.C. at this stage, since the disputed question of fact is to be decided on adducing evidence during enquiry before the Judge, Family Court, Nizamabad.

With the above observation, the criminal petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 01.11.2016
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