

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.11486 OF 2016

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the order dated 04.09.2015 in CrI.M.P. No.34 of 2015 in M.C. No.6 of 2015 passed by the Judge, Family Court-cum-Additional District and Sessions Judge, Nalgonda, whereby the learned Judge awarded interim maintenance @ Rs.3,000/- per month to the second respondent herein and Rs.1,000/- to the third respondent herein.

The present criminal petition is filed challenging the order on various grounds, more particularly, the petitioner was removed from employment in lab and now he is without any employment, therefore in the absence of any proof of income, granting such interim maintenance is excessive and requested to reduce the maintenance @ Rs.2,000/- to the second respondent and Rs.1,000/- to the third respondent herein.

Notice was ordered to the second respondent. But none appeared.

It is an admitted case of the petitioner that as on the date of filing the petition, he was working as Lab Assistant and earning Rs.15,000/- per month, but thereafter he was removed from his employment, now he is unemployed, depending upon his relatives, therefore he has no capacity to pay the interim maintenance awarded by the trial court.

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It is the case of respondents 2 and 3 from the beginning that the petitioner refused and neglected to maintain them, though there is subsisting relationship of wife and son with the petitioner and she has no means to maintain herself and the third respondent, while contending that the petitioner was working as Lab Assistant at Hayath nagar and earning more than Rs.20,000/- per month. But she did not produce piece of paper before the court to accept the contention that the petitioner earning huge amount Rs.20,000/- per month towards salary. However, the trial court awarded interim maintenance referred above and aggrieved thereby, the present criminal petition is filed on the sole ground that he was removed from service, but it is not a ground to quash the proceedings, when he was able to earn more than Rs.20,000/- or atleast even assuming for a moment that the petitioner is earning Rs.15,000/- as on the date of filing petition, awarding interim maintenance at Rs.3,000/- to the second respondent and Rs.1,000/- to the third respondent is not exorbitant. If the present price index and market rates are taken into consideration, a married women is required not less than Rs.3,000/-. Therefore, granting an amount of Rs.3,000/- to the second respondent and Rs.1,000/- to the third respondent is not exorbitant and it is totally commensurate with the price index.

Hence, I find no ground to quash the proceedings. However, the learned Magistrate is directed to dispose of the M.C. No.6 of 2015 as expeditiously as possible.

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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: 06.12.2016
BV

