

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

CRIMINAL PETITION No.3120 of 2013

ORDER :

In this criminal petition filed under Section 482 Cr.P.C., the petitioner seeks to quash the order dated 16.01.2013 in CrI.M.P.No. 6973 of 2012 in M.C.No.18 of 2012, passed by the Junior Civil Judge, Macherla.

2. Petitioner is the respondent in M.C.No.18 of 2012, which is filed by respondents 2 and 3 herein seeking maintenance. While so, on 26.10.2012, the petitioner did not appear in the Court owing to his visit to Bangalore and therefore, his counsel filed absent condonation petition but the same was dismissed by the trial Court and since no counter was filed by the petitioner in the M.C. by then, the trial Court passed an *ex parte* order in favour of respondents 2 and 3 herein. Subsequently, the petitioner filed CrI.M.P.No.6973 of 2012 under Section 126(2) Cr.P.C. to set aside the *ex parte* order dated 26.10.2012. However, the said petition was also dismissed by the trial Court in its order dated 16.01.2013 holding that he was given ample opportunity for filing counter in the main M.C. but he failed to file counter even though condition was imposed.

(a) Aggrieved by the said order dated 16.01.2013, the instant petition is filed by the petitioner.

3. Notice was ordered to respondents but the same

was returned with the endorsement 'addressee refused'.

4. Heard learned counsel for petitioner. Learned counsel submitted that the petitioner could not attend the Court on 26.10.2012 because he went to Bangalore and though absence condonation petition was filed, the same was dismissed and an *ex parte* order was passed and in view of the same, the petitioner could not file his counter to defend him properly and therefore, an opportunity may be given to him to defend the matter.

5. Adverting to the above submission and in view of the fact that the respondents have not chosen to contest the present petition, this petition is allowed and the order dated 16.01.2013 in CrI.M.P.No.6973 of 2012 in M.C.No.18 of 2012 is set aside and the petitioner/respondent is directed to appear before the trial Court and file his counter within four weeks from the date of this order and thereupon, the trial Court is directed to dispose of M.C.No.18 of 2012 within three months.

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

U. DURGA PRASAD RAO, J

18th April 2016

N.B :

Issue C.C. by 20.04.2016.

(b/o)

ajr