

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.9641 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 08.06.2016 in CrI.R.P. No.5 of 2016 passed by the Judge, Family Court-cum-VIII Additional Sessions Judge, Mahabubnagar, whereby the learned Sessions Judge confirmed the order dated 01.08.2014 in CrI.M.P.No.934 of 2015 in M.C. No.10 of 2012 passed by the Judicial Magistrate of First Class, Jadcherla, assigning his own reasons.

The present petition is filed on various grounds. The main ground raised in the petition is that the learned Sessions Judge without considering the facts and circumstances of the case and principles of law dismissed the revision petition. It is also contended that the matter has to be decided on merits, but no *ex parte* order can be passed, since the proceedings are quasi civil in nature.

During hearing, learned counsel for the petitioner reiterated the grounds urged in the petition.

Admittedly, respondents 2 and 3 filed a petition under Section 125 of Cr.P.C. for their maintenance. On 26.02.2013 in response to the notice received from the court, the petitioner herein appeared before the Court and one A.Murali Krishna Rao, Advocate, filed his vakalath on 15.03.2013. On 14.03.2014 for non filing counter, the petitioner herein was set *ex parte* nearly after one year. Subsequently on 25.07.2014 the second

respondent herein filed her affidavit as examination-in-chief and cross-examination was treated as 'nil'. From 14.03.2014 till 25.07.2014 i.e. for a period of one year four months, the petitioner herein has not taken any steps to cross-examine the witness, or no explanation was offered for his failure to pursue the case, during the said period.

Therefore, the trial court having no other alternative, proceeded with the trial and passed the award of maintenance of Rs.3,000/- to the respondents 2 and 3 herein.

Though the petitioner raised several contentions, failed to substantiate the contentions for his absence before the Magistrate for such a long period and in the absence of any such explanation before the court, it is difficult to accept the reason assigned by the petitioner as sufficient cause which prevented the petitioner from prosecuting the petition filed under Section 125 of Cr.P.C.

On overall appraisal of the entire material on record, including the order passed by the learned Magistrate, and the learned Sessions Judge, I find no ground to quash the order under challenge.

The jurisdiction of this Court under Section 482 of Cr.P.C. is limited. If for any reason the order under challenge is without any valid reason, the court can interfere to quash such proceeding, while exercising jurisdiction under Section 482 of Cr.P.C. But, here the order passed by the learned Magistrate and confirmed by the learned Sessions Judge, Mahaboobnagar is based on the fact position. If the order is set aside, certainly it

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would cause much inconvenience to the respondents 2 and 3, who is facing lot of financial troubles, and such conduct if accepted, it would frustrate the very intention of the legislature in incorporating the Section 125 of Cr.P.C. for speedy remedy of maintenance, who are starving.

Therefore, I find no ground to quash the order passed by the learned Sessions Judge, consequently the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed at the stage of admission.

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

M. SATYANARAYANA MURTHY, J

Date: 02.12.2016
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