

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15195 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the proceedings in Criminal Revision Petition Nos.200 of 2015 and 204 of 2015 on the file of III Additional District and Sessions Judge, Kakinada, whereby the order passed by V Additional Judicial Magistrate of First Class, Kakinada in M.C.No.9 of 2013 dated 3-11-2015 was confirmed granting monthly maintenance of Rs.6,000/- to the 2nd respondent from the date of petition.

In the present petition, petitioner raised certain contentions with regard to means of the 2nd respondent and questioned granting maintenance at the rate of Rs.6,000/- per month from the date of the petition.

During hearing, learned counsel for the petitioner would contend that 2nd respondent is also earning member of the family having sufficient means to maintain herself and granting of maintenance from the date of petition after its restoration, the order of Magistrate is illegal and prays to set aside the order impugned.

Trial court and revisional court disbelieved the independent source of income of the 2nd respondent though it was urged before the trial court and revisional court, whereas the petitioner is working as Veterinary Assistant and earning Rs.20,000/- and the trial court accepted the income of the petitioner as Rs.23,000/- but the trial court did not accept the contention of the petitioner that the

2nd respondent possessed independent source of income for her livelihood and it is a disputed question of fact, which is to be enquired into and this court cannot interfere while exercising jurisdiction under Section 482 Cr.P.C.

The 2nd respondent being the wife of salaried employee is expected to lead the same standard of life. If such principle is applied to the present facts of the case, granting maintenance at the rate of Rs.6,000/- per month to the 2nd respondent both to meet necessities and residential accommodation and other medical expenditure, I find that it is a quite reasonable and same cannot be reduced.

The other contention urged by counsel for the petitioner before this court in granting maintenance from the date of petition after its restoration is contrary to law and the court, in the absence of recording any reasons, cannot pass such order. Granting maintenance from the date of petition when the matter is pending before the court for years together is justifiable cause and such order cannot be found fault for the reason, during period of pendency of proceedings neglected wife is bound to incur amount for her maintenance to avoid starvation. Hence, I find no error in the order impugned and petition is pending in the V Additional Judicial Magistrate of First Class, Kakinada from 2014 and the revisional court from 2015, and during such period, wife is expected to incur certain amount for her livelihood and therefore, granting less

maintenance from the date of petition is not a ground to set aside the order.

Considering the facts of the case, I find no ground to interfere with the findings recorded by V Additional Judicial Magistrate of First Class, Kakinada and III Additional District and Sessions Judge, Kakinada in Criminal Revision Petition Nos.200 of 2015 and 204 of 2015 while exercising the jurisdiction under Section 482 of Cr.P.C.

Accordingly, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.



JUSTICE M.SATYANARAYANA MURTHY

Dated 26-10-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 26-10-2016.

Dvs