

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.14504 OF 2016

ORDER.

This petition is filed under Section 482 Cr.P.C. challenging the interim maintenance granted by the trial court at the rate of Rs.3,000/- per month to each of the respondents 2 to 4 herein in a petition filed under Section 125 Cr.P.C., against the claim of Rs.5,000/-.

The main contention of the petitioner herein is that he is an employee drawing meager income as salary to maintain his old aged parents and that he is always ready and willing to lead marital life with the second respondent-wife. But the second respondent herself deserted the petitioner willfully and therefore, she is not entitled to claim maintenance.

The respondents 2 to 4 herein claimed interim maintenance at Rs.5,000/- per month to each of them. Petitioner-husband is drawing substantial amount towards his salary besides possessing Ac.10.00 of land, JCB and Tractor at Gandlapalli of Kalakada Mandal and in total he is getting Rs.5,00,000/- per annum from agriculture besides salary of Rs.50,000/- and therefore, sought to award interim maintenance of Rs.5,000/- to each of the claimants.

The contention of the petitioner is that he is not liable to pay maintenance to the respondents 2 to 4 herein as she has willfully refused to join with the petitioner and he is paying school fee for the respondents 3 and 4 herein and hence, he prayed to set aside the order at least reducing maintenance to Rs.2,500/- per month.

The relationship between petitioner and respondents 2 to 4 is not in dispute. Respondent No.2 is wife who allegedly refused to join the petitioner but children are school going children and the petitioner cannot deny maintenance to the wife and children since they are minors and it is his legal obligation. That apart, the proof of willful neglect to join with the petitioner by the 2nd respondent is a matter of evidence which is to be enquired into in main maintenance case and at this stage, it cannot be accepted.

Admittedly, the petitioner is an employee allegedly drawing Rs.50,000/- per month besides possessing Ac.10.00 of land and JCB and Tractor at Gandlapalli of Kalakada Mandal and earning Rs.5,00,000/- per annum from agriculture and other sources besides income from employment.

Neither the petitioner nor respondents lead any evidence in support of their income whereas respondent No.2-wfe is not attending to any work and did not possess any independent source for her livelihood. But the trial court granted maintenance of Rs.3,000/- which is minimum to meet both ends and Section 125 Cr.P.C. provided speedy remedy for those who are neglected by the husband and father. When the petitioner is working as employee in Government Department, he is bound to maintain his wife and children, prima facie he failed to maintain both children and wife but for any reason, mere payment of school fee to the children for prosecuting their studies is not sufficient and secondly petitioner is

liable to pay maintenance to the respondents 3 and 4 who are the children of the petitioner and second respondent who is his wife. As far as the wife is concerned, at least she requires minimum of Rs.5,000/- per month but trial court granted meager amount to lead ordinary life and while passing the order for grant of maintenance, the court has to take into consideration of status of the husband excepting his wife to lead the same standard of life but trial court granted Rs.3,000/- per month to each of the respondents 2 to 4 i.e., wife and two children.

Therefore, considering the status and standard of life of the petitioner, I find that interim maintenance awarded to each of the respondents 3 to 4 at the rate of Rs.3,000/- per month is just and reasonable and as such, I find no reason to modify order while exercising the powers under Section 482 of Cr.P.C.

Hence, this Criminal Petition is disposed of at the stage of admission.

However, it is left open to the petitioner to raise any legal defence before the Court below in the main petition filed under Section 125 Cr.P.C.

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

JUSTICE M.SATYANARAYANA MURTHY

Dated 17-10-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 17-10-2016.

Dvs