

THE HONOURABLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No. 12356 of 2016

ORDER:

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioners seeking to quash the order dated 04.01.2016 passed by the VII Additional District & Sessions Judge, Anantapur, in CrI.M.P.No.1 of 2016 in CrI.R.P.No.126 of 2015.

Heard the learned counsel for the petitioner and the learned Public Prosecutor and perused the material available on record.

A perusal of the record reveals that the petitioners filed a maintenance case in M.C.No.3 of 2010 on the file of the Judicial Magistrate of First Class, Dharmavaram, against the 2nd respondent and the said case was allowed by order dated 19.05.2010. Subsequently, as the 2nd respondent failed to pay the maintenance, the petitioners filed CrI.M.P.No.2261 of 2012 seeking attachment of his salary. Thereafter, the petitioners also filed a memo stating that the 2nd respondent paid arrears of maintenance only up to 25.06.2012 and therefore sought to attach his salary. On 15.10.2015, while allowing the memo, the learned Magistrate attached the salary of the 2nd respondent. Aggrieved thereby, the 2nd respondent filed CrI.R.P.No.126 of 2015 before the VII Additional District & Sessions Judge, Anantapur. Along with the revision, he filed CrI.M.P.No.1 of

2016 for stay of operation of the order dated 15.10.2015 in Cr.M.P.No.2261 of 2012 in M.C.No.3 of 2010. On 04.01.2016, the learned Judge, while ordering notice to the petitioners, granted interim stay.

The learned counsel for the petitioners mainly submits that without issuing any notice and without hearing the petitioners, the learned Judge granted interim stay of order of attachment.

Having regard to the facts and circumstances of the case and considering the submission of the learned counsel for the petitioners, the Criminal Petition is disposed of, directing the VII Additional District & Sessions Judge, Anantapuram, to dispose of Cr.M.P.No.1 of 2016 in Cr.R.P.No.126 of 2015, after hearing both parties, in accordance with law, within one month from the date of receipt of a copy of this order.

Miscellaneous Petitions filed in this Criminal Petition, if any, shall stand closed.

JUSTICE M.S.K.JAISWAL

28th September, 2016

Note: Furnish C.C. in three days.

(b/o)

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