

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1005 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), is filed by the unsuccessful respondent-husband, assailing the order, dated 04.12.2015, of the learned V Additional Junior Civil Judge, Guntur, passed in M.C.No.8 of 2015.

2. I have heard the submissions of the learned counsel for the petitioner and of the learned counsel for respondents 2 and 3. I have perused the material record.

3. The learned counsel for the petitioner-husband would submit as follows:-

'The relationship is admitted. The order impugned is an *ex parte* order. The petitioner is not having any properties. He is working as a conductor in Telangana State Road Transport Corporation. He is drawing a gross salary of Rs.24,218/-, as is evident from the pay slip issued for the month of December, 2016. By the impugned *ex parte* order, maintenance was awarded @ Rs.4,000/- and Rs.3,000/-per month respectively to the second respondent and the third respondent herein from the date of the impugned order, that is, 04.12.2015. Since the petitioner could not contest the matter, he could not put forward his defence, though he is having a tenable defence. The petitioner is presently not in a position to pay in one instalment, the arrears, which

are approximately in a sum of Rs.92,500/-. The petitioner had already paid Rs.38,500/- towards arrears of maintenance. If the *ex parte* order is set aside subject to conditions and an opportunity is given to the petitioner to have the cause decided on merits, such a course would meet the ends of justice. Therefore, the impugned order may be set aside and an opportunity may be given to the petitioner-husband to contest the matter by remitting the Maintenance Case to the Court below after setting aside the impugned *ex parte* order.'

4. Per contra, the learned counsel for the respondents 2 and 3 would submit as follows:-

'The relationship is admitted. The respondents 2 and 3 herein are not having any income or sources of income. The petitioner, husband of the 2nd respondent, neglected to maintain them. Considering the present day cost of living, the maintenance awarded by the Court below is a meagre amount. Therefore, there is no need to reduce the amount of maintenance or remand the matter to the trial Court after setting aside the *ex parte* order. The petitioner had intentionally remained *ex parte* before the Court below to harass the respondents 2 and 3. The respondents 2 and 3 cannot survive if the maintenance is reduced. Hence the Criminal Revision Case may be dismissed.' The learned counsel for the respondents 2 and 3 would alternately submit that if this Court is inclined to give an opportunity to the petitioner herein to contest the maintenance case, adequate and reasonable terms may be imposed to protect the interests of the respondents 2 and 3.

5. The learned counsel for the petitioner would submit that if the matter is remanded to the Court below after imposing reasonable terms and conditions protecting the interests of both the parties, such a course would sub-serve the ends of justice.

6. Having regard to the facts and submissions, this Criminal Revision Case is allowed and the order impugned is set aside, subject to the following conditions:-

- (i) The petitioner shall deposit to the credit of the above said MC, the aforesaid arrears of maintenance in a sum of Rs.92,500/- in four equal monthly instalments starting from 15.07.2017.
- (ii) On the petitioner depositing the first instalment of Rs.23,125/- on or before 15.07.2017 and also the second instalment of Rs.23,125/- on or before 15.08.2017, to the credit of the M.C.No.8 of 2015, the said MC shall stand restored to the file of the learned V Additional Junior Civil Judge, Guntur. However, on failure of the petitioner to deposit the amounts by way of the above said two instalments, this criminal revision case shall stand dismissed and the order impugned in this revision shall stand revived.
- (iii) On the petitioner making the deposits and on such restoration of the MC, the trial Court shall take up the same for disposal afresh on merits and in accordance with the procedure established by law and shall endeavour to dispose of the same as expeditiously as possible and preferably within a period of

two (02) months from the date of such restoration. During pendency of the (restored) Maintenance Case, the petitioner shall similarly deposit to the credit of the MC the balance of arrears of maintenance i.e., the remaining two instalments on or before 15.09.2017 and 15.10.2017 respectively. However, the amount already paid towards arrears of maintenance shall be given credit to, while calculating the balance of arrears due to be deposited by way of third and fourth instalments.

- (iv) Further, on the restoration of the MC and during the pendency of the MC, the petitioner shall continue to pay to the respondents 2 and 3 or deposit to the credit of the MC the monthly interim maintenance, in all, @ Rs.4,500/-, regularly and without fail until the disposal of the MC as directed in these orders.

As and when the petitioner deposits the amounts as directed supra, the respondents 2 and 3 herein shall be at liberty to withdraw the same by following the procedure established by law. It is needless to state that the deposits that may be made by the petitioner shall be subject to the final orders in the Maintenance Case

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

29th June, 2017
Bvv

M.Seetharama Murti, J