

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.1421 of 2017

ORDER:

This criminal revision case, under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, ('the Code', for short), is filed by the unsuccessful 1st respondent assailing the order, dated 07.11.2016, passed by the learned Judge, Family Court, Secunderabad, in MP.No.246 of 2015 in MP.No.21 of 2013 in M.C.No.29 of 2010.

I have heard the submissions of *Sri V. Venkat Kumar*, learned counsel for the petitioner, and of *Ms. V. Padma*, learned counsel representing the 2nd respondent. I have perused the material record.

The facts of the case, which are required to be stated as a preface to this order, in brief, are as follows: - 'The respondents 2 to 6 herein filed the afore-stated Miscellaneous Petition for recovery of arrears of maintenance @ Rs.10,000/- per month besides regular enhanced monthly maintenance. In the said petition, the said respondents claimed, *inter alia*, that the petitioner herein has to pay Rs.1,98,000/- @ Rs.10,000/- per month apart from the enhanced amount of Rs.17,000/- per month. The petitioner herein in his counter stated that he paid chit amount of Rs.1,37,000/-, which was lifted by the 2nd respondent, and that, therefore, he has to pay only Rs.55,000/-. He further submitted that the order, dated 19.09.2015, is under challenge in an appeal. Having considered the rival contentions, the trial Court, in the operative portion of the impugned order held as follows:

'Hence the respondent has to pay the arrears of maintenance to the petitioners at a rate of RS 17,000/- p.m and Rs.10,000/- p.m till the date of realisation and accordingly the respondent shall transfer the amounts through online to the bank account of the petitioner which has already been furnished by her.'

Aggrieved thereof, the 1st respondent is before this Court.'

At the hearing, learned counsel for the petitioner herein points out that there is no clarity in the order of the Court below and that in the said order,

the arrears of maintenance, if any, payable by the petitioner to the respondents 2 to 6 herein are not mentioned and even the period for which the arrears are due and payable is also not stated in the operative portion of the order and that such an order is of no avail to either of the parties and is, therefore, liable to be set aside.

Learned counsel for the 2nd respondent also fairly concedes that there is no clarity in the operative portion of the order of the Court below.

In that view of the matter, this Court is of the considered view that the order impugned is liable to be set aside and the matter deserves to be remitted to the Court below for disposal afresh with certain directions.

In the result, the Criminal Revision Case is allowed and the order impugned in the revision is set aside and MP.No.246 of 2015 is remitted to the Court below with a direction to dispose of the same afresh on merits, however, after giving an opportunity of hearing to both the sides. The Court below is further directed to mention in its order that may be passed after this remand, the exact amount of arrears due and payable, if any, by the petitioner herein to the respondents 2 to 6 herein by specifically mentioning the period and the amount of arrears. Considering the fact that the issue involved is arrears of maintenance, the Court below shall make an endeavour to dispose of the petition now remitted, as directed in this order, as expeditiously as possible and preferably within two months from the date of receipt of a copy of this order.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

21.06.2017
Vjl