

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7003 of 2017

ORDER:

Heard learned counsel for the petitioner, who is no other the respondent to the MC.No.9 of 2015.

This petition is filed impugning dismissal order of the lower Court dated 08.05.2017 in CrI.M.P.No.1612 of 2017. It was an application to receive the documents, which are in relation to the school fee of the minors i.e., M.C. petitioner Nos.2 & 3 said to have been born by the MC respondent as father. It was filed under Section 294 Cr.P.C. and the lower Court dismissed the same.

The impugned order no doubt not even adverted to the scope of Section 294 Cr.P.C. much less received under Section 254 (2) Cr.P.C. read with Section 126 (2) Cr.P.C. or even under Section 165 of the Evidence Act. It is simply dismissed. In fact Section 294 Cr.P.C. is in relation to the notice to the opposite side either by prosecution or accused or petitioner or respondent as the case may be to admit and once admitted no formal proof is required. It is not even such a case of serving notice to the other side, but for filing application to receive documents and not even a case of summoning much less by invoking Section 91 Cr.P.C.

Having regard to the above, the impugned order no way comes in the way for the petitioner if at all to file fresh petition with correct provision of law by virtue of this order, by taking return of the documents and within one (01) week from the date of receipt of a copy of this order, for the lower Court to pass a reasoned order after hearing both sides.

Accordingly and in the result, the Criminal Petition is disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 10.08.2017

Note: Issue C.C. tomorrow

(B/o)

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