

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1855 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, filed by the petitioner-wife is directed against the docket order, dated 15.05.2017, of the learned Judicial Magistrate of First Class at Godavarikhani, passed in Cr.M.P.No.514 of 2017 in D.V.C.No.30 of 2010.

2. I have heard the submissions of *Sri K.S.Murthy*, learned counsel for the petitioner, and of the learned Public Prosecutor appearing for the State of Telangana. Since the matter is being disposed of at the stage of admission, there is no need to issue any notices to the 2nd respondent or other respondents in the D.V.Case. I have perused the material record.

3. The facts, as narrated by the learned counsel for the petitioner, in brief, are as follows:

The petitioner herein obtained an order in the above D.V.Case. However, in the appeal that was filed by the respondents viz., CrI.A.No.172 of 2013, the appellate Court while setting aside the order of the trial Court insofar as it related to the grant of maintenance, directed the appellant No.1-2nd respondent herein to pay a consolidated amount of Rs.2,00,000/- towards maintenance within one month from the date of the said order of the appellate Court. The respondent No.2 herein approached this Court by filing CrI.R.C.No.2070 of 2015. This Court granted an interim order, dated 01.09.2015, in CrI.R.C.M.P.No.3227 of 2015 in the said revision case. The said order reads as under:

“Notice before admission.

Learned counsel for the petitioner is also permitted to take out personal notice to the second respondent by registered post with Acknowledgment Due and file proof of service.

Post after service of notice.

There shall be interim suspension on condition of the petitioner depositing a sum of Rs.1,00,000/- (Rupees one lakh only) on or before 14.10.2015 before the trial Court, in default, the interim order will stand vacated automatically."

4. Subsequently, the said Criminal Revision Case was dismissed as infructuous, on the basis of the submission of the learned counsel for the respondent No.1 in the D.V.Case, i.e., the revision petitioner in CrI.R.C.No.2070 of 2015. Thereafter, the petitioner in the D.V.Case filed the first mentioned application in Cr.M.P.No.514 of 2017 in D.V.Case seeking permission to withdraw the amount of Rs.1,00,000/- deposited by the 2nd respondent herein pursuant to the interim orders of this Court. The trial Court dismissed the said application erroneously observing that there is no direction to the petitioner in the D.V.Case to withdraw the said amount. Aggrieved thereof, the petitioner is before this Court.

5. Learned counsel for the petitioner would submit that since the order of the appellate Court has attained finality on the dismissal of the Criminal Revision Case by this Court, as infructuous, no further orders are necessary to be obtained from this Court and that the trial Court ought to have permitted the petitioner to withdraw Rs.1,00,000/- deposited by the 1st respondent in the D.V.Case pursuant to the interim orders of this Court. The 1st respondent in the D.V.Case is obliged under facts and in law to pay to the petitioner herein the amount due and payable as per the orders of the appellate Court in CrI.A.No.172 of 2013, which have become final.

6. Having regard to the facts and submissions, this Court finds that the Revision Case deserves to be allowed at the stage of admission.

7. Accordingly, the Criminal Revision case is allowed and the impugned order, dated 15.05.2017, of the learned Judicial Magistrate of First Class at

Godvarikhani, passed in Crl.M.P.No.514 of 2017 in D.V.C.No.30 of 2010 is set aside and permission is accorded to the petitioner herein to withdraw Rs.1,00,000/- with interest, if any accrued thereon, without furnishing any security and by following the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M.SEETHARAMA MURTI

July 5, 2017
Lmv

