

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.992 of 2017

ORDER:

This criminal petition is filed by the petitioner, under Section 482 of Cr.P.C., assailing the docket order, dated 27.10.2016, of the learned Judicial Magistrate of First Class, Mulugu, passed in CrI.M.P.No.306 of 2014 in D.V.C.No.19 of 2012.

2. Heard learned counsel for the petitioner and learned Public Prosecutor and with their consent, the criminal petition is disposed of at the admission stage.

3. The CrI.M.P.No.306 of 2014 was filed under Section 20(6) of the DVC Act, contending that there was a compromise between the parties and the respondent agreed to pay Rs.5,000/- towards monthly maintenance from the date of compromise and retirement benefits of Rs.5,00,000/-. The Court below, by virtue of the docket order, dismissed the petition observing that the petition is premature, as the respondent has not yet retired. The observation of the lower Court to the extent of the retirement benefits would hold good, but the order does not disclose as to why the plea of the petitioner as regards the monthly maintenance of Rs.5,000/- is not met with.

4. Learned counsel for the petitioner submits that no notice was ordered to the respondent before passing the impugned order. Hence, I opine that it is a fit case for remand.

5. The Court below shall issue notice to the respondent and after hearing both sides, shall pass appropriate orders as regards the alleged failure of the respondent to pay the monthly maintenance of Rs.5,000/- as per the compromise. But considering the apprehension of the

learned counsel for the petitioner that the respondent might withdraw the retirement benefits thereby making it difficult, if not impossible, for the petitioner to realize the arrears of maintenance, a limited stay is granted till disposal of the petition filed by the petitioner before the Court below and the Disbursing Officer is directed not to release the retirement benefits of the respondent till the disposal of the said petition.

6. With the above observations, the Criminal Petition is disposed of.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

Date: 12th October, 2017

Note: Issue C.C. in three (03) days.

(B/o.)
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Date: 12th October, 2017

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