

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2449 of 2017

ORDER:

This Criminal Revision Case under Sections 397 and 401 Cr.P.C. is filed challenging order dated 12.06.2017 passed by Judge, Family Court, Secunderabad, in M.C.No.40 of 2013 awarding maintenance in favour of two minor children who are in the custody of wife of petitioner.

Petitioner's wife and two minor children filed M.C. No.40 of 2013 before Judge, Family Court, Secunderabad, under Section 125 Cr.P.C. for grant of maintenance, mainly contending that petitioner refused and neglected to maintain them and that they have no independent source of income to maintain themselves, whereas, petitioner possessed sufficient means to pay maintenance to them.

Petitioner's contention before the Court below was that he is taking care of the two children and that wife herself left his company without any justifiable or reasonable cause and living separately and therefore, he is not liable to pay maintenance.

During enquiry, on behalf of respondents, petitioner's wife was examined as P.W.1 and got marked Exs.A.1 to A.4. On

behalf of petitioner, himself was examined as R.W.1 and got marked Exs.B.1 to B.7.

The Court below held that wife deserted petitioner without any reasonable cause and living separately and thereby, denied maintenance to her while granting maintenance to both minor children 7 years and 4 years, respectively.

Petitioner's contention before this Court is that he is looking after both the children by providing necessary medical aid, paying school fees etc., and he presented a watch and sent certain E-Mails. But, payment of school fees and incurring medical expenses is not sufficient and petitioner has to provide food, shelter and clothing to children and is legally bound to maintain the children during their minority but his failure to take steps to restore the custody of children by filing appropriate application itself indicates that he is not providing necessary food, shelter, clothing and other incidental expenses to his children, payment of school fees and medical bills would not exonerate petitioner, being father, who is legally bound to maintain his children, from his liability to pay maintenance. Therefore, till custody of minor children is taken through process of the Court, petitioner is bound to pay maintenance to respondents 1 and 2 i.e., minor children.

Counsel for petitioner contended that grant of maintenance to respondents 1 and 2 @ Rs.7,500/- each is excessive. Since petitioner is working as a software engineer and earning Rs.50,000/- per month, the children are expected to lead same standard of life which the father is leading while they were staying with him. Therefore, grant of maintenance at Rs.7,500/- to each of respondents 1 and 2 is just and reasonable taking into consideration the standard of life of petitioner, the present cost of living and the price index. However, it is left open to petitioner to take appropriate steps for custody of children. Till then, he is bound to pay maintenance.

At the end, counsel for petitioner requested this Court to grant one month time to petitioner for payment of arrears of maintenance to respondents 1 and 2.

While granting one month time to petitioner for payment of arrears of maintenance to respondents 1 and 2, this Criminal Revision Case is dismissed at the stage of admission.

Consequently, pending Miscellaneous Petitions, if any, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

13th SEPTEMBER, 2017.

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