

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2556 of 2017

ORDER:

This revision case is preferred under Sections 397 and 401 of Code of Criminal Procedure (fort short "Cr.P.C.") questioning the legality, propriety and regularity of the order dated 28.08.2017 passed in CrI.M.P.No.116 of 2017 in M.C.No.25 of 2017 by the Judge, Family Court – cum – III Additional District and Sessions Court, Srikakulam, whereby the trial Court granted interim maintenance at the rate of Rs.20,000/- per month from the date of filing of the petition till disposal of M.C.No.25 of 2017.

The main contention urged before this Court by the learned counsel for the petitioner herein is that the petitioner is a retired Assistant Sub-Inspector, who is getting an amount of Rs.30,771/- per month by way of pension, but the trial Court granted interim maintenance at the rate of Rs.20,000/- per month, which is more than half of his pension, without considering the various contentions raised by the petitioner.

As seen from the record, no documents were filed by the petitioner before the trial Court in support of his contentions. Here, the petitioner filed certain documents regarding deposit of Rs.5,00,000/- and electronic transfer of Rs.40,000/- and purchase of house by the petitioner herein and the respondent is allegedly collecting rent from the said house, but there is nothing on record to prove the same. However, statement of account issued by the State Bank of India, Zilla Parishad Junction, Collectors Bunglow Road, Srikakulam would show that certain amounts were

transferred to the respondent, but these documents were not produced before the Court below for consideration.

Since the Crl.M.P.No.116 of 2017 was filed for grant of interim maintenance, the petitioner is permitted to file documents, if any, in support of his contentions, before the trial Court and the trial Court is directed to receive those documents subject to admissibility and permissibility after satisfying with the reasons for not filing those documents on earlier occasion and decide the matter afresh.

As the interim maintenance granted by the trial Court is excessive, the order passed by the trial Court is liable to be set aside.

In the result, the criminal revision case is allowed, setting aside the order dated 28.08.2017 passed in Crl.M.P.No.116 of 2017 in M.C.No.25 of 2017 by the Judge, Family Court – cum – III Additional District and Sessions Court, Srikakulam while remanding the matter to the trial Court for fresh disposal in accordance with law after affording a reasonable opportunity to both sides to produce documents, if any, in support of their contentions, within a month from the date of receipt of a copy of this order. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

27.10.2017
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