

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.783 of 2017

ORDER:

This revision is preferred under Sections 397 and 401 of Code of Criminal Procedure (for short "Cr.P.C.") questioning the legality of the docket order dated 23.02.2017 passed in CrI.M.P.No.467 of 2015 in M.C.No.160 of 2011 by the Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad whereby the CrI.M.P.No.467 of 2015 was allowed holding that the respondent-husband need not pay the maintenance awarded in M.C.No.160 of 2011.

The reasoning assigned in the order is that in M.C.No.160 of 2011 maintenance of Rs.6,000/- p.m. (Rs.2,000/- each) was already awarded and subsequently petitioners herein filed D.V.C.No.9 of 2009, but the said Domestic Violence Case is pending, where the same relief is claimed under Section 20 (1) (d) of Domestic Violence Act, which is subject matter of CrI.R.C.No.1131 of 2015.

Learned counsel for the petitioners contending that passing of such order that the respondent-husband need not pay maintenance in M.C.No.160 of 2011 till the disposal of CrI.R.C.No.1131 of 2015 is contrary to law.

Under Section 20 (1) (d) of Protection of Women from Domestic Violence Act (for short "D.V.Act"), Magistrate is competent to order maintenance for the aggrieved person as well as her children, if any, including an order under or in

additional to an order of maintenance under Section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

In view of Section 20 (1) (d) of D.V.Act, grant of maintenance under the Act is including an order under or in addition to an order of maintenance under Section 125 of Cr.P.C. or any other law for the time being in force. Hence, it is made it clear that grant of maintenance under the Act is permissible, though maintenance under Section 125 of Cr.P.C. is granted.

When revision is pending, the respondent – husband may obtain order of stay or suspension in the maintenance case, but the Judge, Family Court, erroneously exercised jurisdiction and allowed the same directing the husband not to pay maintenance till the disposal of R.C.No.1131 of 2015.

However, the Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad passed an erroneous and cryptic order in Crl.M.P.No.467 of 2015 in M.C.No.160 of 2011 without assigning any reason. Therefore, the docket order passed in Crl.M.P.No.467 of 2015 in M.C.No.160 of 2011 by the Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad is hereby set aside and remanded the matter to decide afresh within one month from the date of receipt of a copy of this order.

In the result, the criminal revision case is allowed setting aside the docket order passed in Crl.M.P.No.467 of

2015 in M.C.No.160 of 2011 by the Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad and remanded the matter to the trial Court to decide afresh, in accordance with law, within one month from the date of receipt of a copy of this order.

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

JUSTICE M. SATYANARAYANA MURTHY

11.08.2017
Ksp

