

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.2483 of 2017

ORDER :

Heard learned counsel for the petitioner.

2. The petitioner herein is respondent in M.C.No.39 of 2015 on the file of the Judicial First Class Magistrate, Prathipadu, and also defendant in O.S.No.171 of 2015 on the file of the Senior Civil Judge, Peddapuram. The above cases are filed by the self same parties i.e., the wife and minor children of the petitioner. O.S.No.171 of 2015 filed for maintenance under Section 18 of the Hindu Adoptions and Maintenance Act, 1956. The maintenance case under Section 125 Cr.P.C. is for summary enquiry and immediate relief. The contention is that because of the suit and maintenance case filed at a time and since suit is pending for efficacious remedy, the summary enquiry for maintenance claim is no way sustainable. There is no statutory bar admittedly for the maintainability. Further, the scope of suit is entirely different including in trial and strict proof regarding the relationship of wife, husband and children. So far as summary adjudication under Section 125 Cr.P.C. as immediate relief concerned, the scope of enquiry is altogether different, but for to say if at all any maintenance awarded application under Section 125 Cr.P.C., that can be taken into consideration for fixing the quantum in the suit. Having regard to the above, there is no bar for maintainability of the maintenance case because of the civil suit and there is no force in the contention of non-maintainability.

3. With the above observations, the criminal petition is rejected.
4. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

6th September 2017.

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