

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.1231 of 2008

JUDGMENT:

Heard Sri N. Shiva Kumar, learned counsel for the petitioner-husband and Sri K.S. Murthy, learned counsel for the respondents 1 and 2.

2. The revision petitioner questioned the order dated 23.07.2008 in M.C. No.5 of 2008 on the file of the Judge, Family Court, Guntur, whereby and whereunder in an application for maintenance filed by the respondents 1 and 2 under Section 125 of Criminal Procedure Code, 1973 (for short, 'the Code'), the learned Judge, Family Court, after elaborately discussing the evidence on record i.e., P.Ws.1 and 2 and Exs.P1 to P6, and R.W.1 on behalf of the revision petitioner/respondent, arrived at a finding that the 1st respondent was not entitled to maintenance as she failed to prove that she is legally wedded wife of the revision petitioner. But, however, considering the entries in Ex.P3 and the evidence of P.W.1 and the answers given by R.W.1 in his cross-examination, arrived at the finding that the 2nd respondent/2nd petitioner was a child born to them as he maintained relations with the 1st respondent/1st petitioner as a kept mistress and thus awarded a sum of Rs.3,000/- towards monthly maintenance of the 2nd respondent, having found that the revision petitioner was working as Constable in Armed Reserve, earning Rs.15,000/- per month, even according to the admitted case of

husband. That finding has been challenged in the present Criminal Revision Case.

3. The order passed by the learned Judge, Family Court, Guntur, in paragraph-22 reads thus:

“In the result, the petition is partially allowed. The petition is dismissed in respect of the relief of maintenance claimed by the first petitioner. However, the petition is allowed in respect of the maintenance of the second petitioner. The respondent is directed to pay maintenance of Rs.3,000/- (Rupees Three thousand only) per month to the second petitioner from Dec-2005 i.e., 6.12.2005. The first petitioner being guardian of the second petitioner, is directed to open one savings bank account in the name of second petitioner in any nationalized bank and furnish the particulars of that account to the court within 15 days. The respondent shall deposit the arrears of maintenance of the second petitioner into the said account upto date. From the month of this order, he shall deposit the monthly maintenance of the second petitioner into the said account on or before 5th of every month. The first petitioner is directed to keep the entire arrears of maintenance of second petitioner in fixed deposit in any nationalized bank, until the second petitioner attains majority. In the event of the respondent failing to pay the arrears of maintenance within one month, the second petitioner is entitled to claim the same with future interest @ 9% per annum from the date of default till the date of realization.”

4. A perusal of Ex.P3-Birth certificate of 2nd petitioner even independently dealing with the evidence on record would clearly show that the revision petitioner himself admitted his status as father of the 2nd respondent herein. When such is the situation, certainly, there is no merit, and the submission that the learned Judge, Family Court, did not properly appreciate the evidence on record is of not worthy of acceptance.

5. Therefore, there is no merit in the present Criminal Revision Case, and accordingly, the same is dismissed confirming the order under challenge passed by the learned Judge, Family Court.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Revision Case, shall stand closed.

A. SHANKAR NARAYANA

Dt.14.11.2017
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