

HON' BLE SRI JUSTICE P.KESHAHA RAO

CRIMINAL PETITION No. 12563 of 2011

ORDER:

The Criminal Petition has been filed under Section 482 Cr.P.C. by the Petitioner seeking to quash the Order passed in CrI.M.P.No.302 of 2010 in MC No.257 of 2004 on the file of the Court of Addl.Metropolitan Sessions Judge for the trial of Jubilee Car Bomb Blast-cum-Addl.Family Court at Hyderabad.

2. The brief facts of the case are that, the 2nd Respondent herein has filed MC.No.257 of 2004 under Section 125 Cr.P.C. before the Court of the Addl.Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-Cum-Addl.Family Court-Cum-XXIII Addl.Chief Judge, Hyderabad seeking monthly maintenance. After due enquiry, the court below has allowed the Maintenance Case in part by Orders dated 07.12.2006 awarding an amount of Rs.1500/- to the 2nd Respondent herein towards monthly maintenance from the date of the said order. Thereafter, the 2nd Respondent herein filed a miscellaneous petition viz., MP.No.302 of 2010 in the above maintenance case in the court below seeking enhancement of monthly maintenance of Rs.1500/- to Rs.5000/-. The Court below by Orders dated 29.09.2011 has allowed the same by enhancing the maintenance amount from 1500/- to Rs.4000/- per month from the date of the said order. Aggrieved by the same, the present criminal petition is filed by the Petitioner herein

3. Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the 2nd Respondent.

4. The learned counsel for the Petitioner submits that the Petitioner is a Photographer and that the business which he was doing earlier is also closed and at present he is unemployed and had no source of income and thereby requested to consider the case of the petitioner sympathetically.

5. Perused material placed on record. The Order passed in MP.No.302 of 2010 reads thus:

“... In these five years the costs of essential commodities have gone up. The prices of other commodities and the cost of living also increased. Therefore, the petitioner cannot survive with a maintenance of Rs.1500/-. In these hard days the income of the respondent might have increased in these four years. As such, the petitioner made out a case for enhancement of a monthly maintenance. The respondent contributed to the same by not contesting the petition. In fact, the respondent enters appearance but did not file his objections for the petition. Taking into account the minimum requirements of the petitioner, I am inclined to enhance the monthly maintenance to Rs.4000/- a month from the date of the Order.”

6. Be that as it may, in the present day circumstances and in view of the escalation in the cost of living, Rs.1500/- granted by the court below in the year 2006 towards monthly maintenance does not meet the actual needs of the 2nd Respondent in the present hard days. Though the 2nd Respondent herein has not placed on record any proof of income and status of the Petitioner herein and considering the present day escalation in cost of living, the impugned Order is hereby modified by reducing the monthly maintenance of Rs.4,000/- to Rs.3,000/- payable to the 2nd Respondent herein. It is needless to mention that this Order would come into force from the date of the Orders passed by the Court below in MP.No.302 of 2010 in MC No.257 of 2004 on the file of the Addl.Metropolitan Sessions Judge for the trial of Jubilee Car Bomb Blast-cum-Addl.Family Court at Hyderabad.

7. With the above modification, the Criminal Petition is allowed in part. As a sequel, the miscellaneous petitions if any, shall stand disposed of.

HON'BLE SRI JUSTICE P. KESHA RAO

20th October, 2017
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