

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2330 OF 2017

ORDER:

This criminal revision is filed challenging the order dated 06.07.2017 in M.P.No.2040 of 2016 in M.C.No.441 of 2016 passed by the Additional Metropolitan Sessions Judge for Trial of JHCBBC cum Additional Family Court cum XXIII Additional Chief Judge, Hyderabad.

For the sake of convenience, the parties are referred to as they arrayed before the Court below.

The petitioner filed M.P.No.2040 of 2016 under Section 125(1) of Cr.P.C. for grant of interim maintenance at Rs.50,000/- per month during pendency of the main petition, but the respondent denied his liability to pay maintenance while contending that the petitioner is not entitled to claim maintenance as she is employed and able to maintain herself.

The Court below has not considered the allegations made in M.P.No.2040 of 2016, more particularly, in para 2 of the petition that the respondent is not employed anywhere and depending upon her salary from the date of her marriage, but at the end of the petition, she claimed Rs.50,000/- per month from the respondent as he is employed and is drawing Rs.1,00,000/-.

Though notices were served on the respondent herein and also on the counsel before the Court below, they did not appear.

Therefore, these inconsistent statements in the petition were not taken into consideration including the contention raised by the learned counsel for the respondent in the counter regarding her ability to maintain herself, being an employee. The order under challenge is cryptic and it is without consideration of any of the contentions raised by both the parties. Therefore, such order cannot be sustained, as it is

irregular by exercising power under Sections 397 and 401 of Cr.P.C.
Hence, the order under challenge is set aside.

In the result, the Criminal Revision Case is allowed by setting aside the order dated 06.07.2017 in M.P.No.2040 of 2016 in M.C.No.441 of 2016 passed by the Additional Metropolitan Sessions Judge for Trial of JHCBBC cum Additional Family Court cum XXIII Additional Chief Judge, Hyderabad with a direction to consider the application of the petitioner afresh after affording opportunity to both the parties and pass appropriate orders within one month from the date of receipt of a copy of this order.

Miscellaneous petitions, pending if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 08.09.2017
ssp

