

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.1032 of 2017

ORDER:

This criminal revision case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, ('the Code', for short) by the petitioner-husband is directed against the orders, dated 17.03.2017, of the learned Judge, Family Court-cum-VI Additional Sessions Judge, Khammam, passed in CrI.MP.No.59 of 2017 in M.C.No.74 of 2014.

Heard the submissions of *Sri Venugopala Rao Pasnooru*, learned counsel for the petitioner-husband, and of *Sri P. Durga Prasad*, learned counsel for the respondents 1 & 2. Perused the material record.

The facts, which lie in a narrow compass, in brief, are as follows:

The respondents 1 & 2 obtained an order of maintenance in M.C.No.74 of 2014. Contending that the said *ex parte* order was obtained without service of summons on the petitioner-husband, he filed the afore-stated Miscellaneous Petition to set aside the *ex parte* order, dated 16.12.2014, passed in the Maintenance Case. The trial Court, by the order impugned in this revision, while allowing the said petition, imposed a condition that the petitioner-husband shall pay the entire arrears of maintenance within one month from the said date, 17.03.2017. Aggrieved thereof, the petitioner-husband filed this revision case.

Learned counsel for the petitioner-husband would submit that the condition imposed is onerous and that the trial Court ought to have allowed the petition filed by the husband to set aside the *ex parte* order as no summons were served before the said order was passed. However, he further submits that this Court, on 13.04.2017, while ordering notice before admission, granted

interim suspension of the order impugned subject to the petitioner-husband depositing the whole of the amount and that the said amount is deposited to the credit of the Maintenance Case *vide* challan of SBI, dated 20.04.2017. He, therefore, submits that in view of the compliance of the condition, the revision may be disposed of directing the parties to have the cause in the Maintenance Case decided on merits.

Learned counsel for the respondents 1 & 2, while endorsing the said view, would submit that the revision may be disposed of by granting permission to the respondents 1 & 2 to withdraw the amount deposited by the petitioner-husband.

Recording the afore-said submissions of both the sides and keeping in view the facts of the case, this Court is of the considered view that the revision can be disposed of with appropriate directions.

Accordingly, the Criminal Revision Case is disposed of confirming the order of the trial Court. As a sequel, since the Maintenance Case (M.C.No.74 of 2014) stands restored and as it is a sufficiently old matter, the trial Court is directed to dispose of the Maintenance Case on merits and in strict accordance with the procedure established by law as expeditiously as possible and preferably within three (03) months from the date of receipt of a copy of this order. The respondents 1 & 2 are permitted to withdraw the amount deposited by the petitioner-husband with interest, if any, accrued thereon.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

14.06.2017
Vjl