

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.2387 OF 2017

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the order, dated 22.07.2016, passed in CrI.M.P.No.640 of 2015 in F.C.O.P.No.87 of 2015 on the file of the Judge, Family Court – cum VIII Additional District Judge, Ongole, Prakasam District.

2. Respondent Nos.1 and 2 did not appear in spite of notice being served.

3. Heard learned counsel for the petitioner and the learned Public Prosecutor (A.P.) appearing for respondent No.3 and with their consent, this criminal petition is disposed of at the stage of admission.

4. Learned counsel for the petitioner submits that the petitioner is earning Rs.5,000/- per month by doing papad business and he has a liability of looking after his son and his parents and that as he is residing in a rented house, he has to pay the rents, and that granting of interim maintenance at Rs.2,000/- per month to respondent No.1 and Rs.1,500/- per month to respondent No.2 has become a burden to him in the light of the above circumstances.

5. A perusal of the order of the lower Court shows that there is no material furnished by either side with regard to income of the petitioner herein. Hence, in those circumstances, the Court below awarded the maintenance by making an assumption about the

income of the petitioner herein. The maintenance petition would show that petitioner Nos.1 and 2 therein averred that the respondent therein has immovable properties at Vijayawada and also bank balances. Petitioner No.1 therein can secure some evidence with regard to the properties and the bank balances if her statement is true, but she did not take any steps to prove the same. Hence, it has to be considered as a false statement. With regard to the brokerage of plots and mirch business, she did not put forth any iota of evidence.

6. Hence, in the above circumstances, the contentions of petitioner Nos.1 and 2 in the maintenance petition cannot be accepted and if the contention of the petitioner herein is accepted, then the maintenance of Rs.2,000/- per month to respondent No.1 herein and Rs.1,500/- per month to respondent No.2 herein would definitely burden him. Hence, the maintenance of Rs.2,000/- awarded to respondent No.1/wife is reduced to Rs.1,500/-. Rest of the order is not interfered with.

7. With the above observations, this Criminal Petition is disposed of.

8. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE T.RAJANI

Date : 27.10.2017
AMD

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Date: 27.10.2017

AMD