

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.650 OF 2005

ORDER:

This revision is filed under Sections 397 and 401 Cr.P.C. aggrieved by the order in M.C.No.36 of 2002 passed by the Judge, Family Court-cum-V Additional District Judge, Tirupathi in granting maintenance at the rate of Rs.3,000/- and Rs.2,000/- per month to petitioners 1 and 2 respectively from the date of order.

The facts are not in dispute. The only question before this Court is whether the maintenance can be awarded from the date of petition or from the date of order.

The relevant provision which deals with granting maintenance either from the date of petition or from the date of order is Section 125(2) Cr.P.C. and it is extracted hereunder for better appreciation.

Section 125(2) in The Code Of Criminal Procedure, 1973

Such allowance shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance.

In view of the amendment of Cr.P.C. by Act 50 of 2001 with effect from 24.09.2001, any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of order, or, if so ordered, from the date of application for maintenance or interim maintenance and expenses of the proceeding, as the case may be.

In ***Smt.Chikkamma @ Parvathamma and another v. Yerriswamy and another***¹, this Court made it clear that the normal Rule under Section 125 Cr.P.C. is that the petitioner was entitled for maintenance from the date of order and the date of petition is an

¹ 2004(2) APLJ 390

exception to normal Rule. For granting maintenance from the date of petition, the Court is required to record reasons for such granting of maintenance from the date of petition. Therefore, the trial Court did not deviate the normal rule. But on the other hand, the trial Court is more cautiously recorded reasons for granting maintenance even from the date of order though not required.

It is an admitted fact that the petitioners received interim maintenance at the rate of Rs.1,800/- per month during pendency of the petition which culminated into final order of maintenance at Rs.3,000/- per month to the 1st petitioner and Rs.2,000/- per month to the 2nd petitioner from the date of order. Therefore, the trial Court committed no error warranting interference by this Court in view of the limited jurisdiction that conferred by Sections 397 and 401 Cr.P.C. and consequently the revision case is liable to be dismissed as it is lack of merits.

In the result, the Criminal Revision Case is dismissed.

The Miscellaneous petition, if any pending, shall stand closed.

M.SATYANARAYANA MURTHY, J

Dt.18.08.2017
ssp