

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.538 of 2017

ORDER :

Impugning the ex parte order of maintenance in M.C.No.195 of 2015 dated 04.03.2016 passed by the learned Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, Hyderabad, on the application of wife and minor son against the revision petitioner as sole respondent, out of their claim of Rs.10,000/- p.m. to each claiming that he is a businessman, since awarded Rs.7,500/- p.m. to the wife and Rs.6,000/- p.m. to the child, this revision is filed.

Undisputedly, it is an order dated 04.03.2016, there is a remedy under Section 126 Cr.P.C., if at all to file an application to set aside the ex parte order, even notice sent, the same was returned as addressee left. Once it is a deemed service, the lower Court is right in passing the impugned order. Even after filing of execution, any application could have been filed before the lower Court to set aside the ex parte decree to decide on merits, if at all the quantum is required to be reduced, though several contentions raised including exchange of notices between the parties in 2007 and from the 1st petitioner's evidence affidavit of the so called neglect from 2008, there is nothing to show that he sent any amount or filed any application for restitution of conjugal rights. A wife, even allegedly her cause is out of unbearability of harassment, to show

justification, on that ground, it requires no interference with the ex parte order.

So far as quantum is concerned, if at all any application to be filed, liberty is given to the petitioner to file within one week from the date of receipt of copy of this order under Section 126 Cr.P.C. for the lower Court to enquire into and decide the quantum without insisting for the bar of limitation or any application to condone the delay in entertaining such application under Section 126 Cr.P.C., if filed within one week from the date of receipt of copy of this order. Till then the order under execution holds good.

Accordingly, the Criminal Revision Case is disposed of. However, liberty is given to deposit 3/4th of the arrears and on such deposit, the order is being suspended automatically, to release him from the prison and final order can be issued after final decision. It is needless to say, if 3/4th of the amount of the arrears is deposited and to pay 3/4th of the amount continuously, the M.C. petitioners, who are executing the order are entitled to withdraw the same, without furnishing any security. Two months time is granted to pay the arrears.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:03-03-2017
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