

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.266 of 2017

ORDER :

Aggrieved by the order dated 06.01.2017 in MP No.7 of 2015 in MP No.166 of 2015 in MP No.96 of 2011 in M.C.No.81 of 2015, this revision is filed by the respondent in M.C.No.81 of 2009, which was filed against him by his minor daughter, represented by mother as guardian.

2. Originally, maintenance of Rs.4,000/- p.m. was ordered in said main case for maintenance. Seeking enhancement of said maintenance sum to Rs.10,000/- p.m., she maintained the M.P.No.96 of 2011. Said enhancement application was dismissed for default on 09.02.2015. Restoration application in M.P.No.166 of 2015 was filed. That restoration application was while coming for counter of M.C. respondent/revision petitioner, on 23.11.2015 it was dismissed for no representation of petitioner, instead of treating no counter or at best by granting time further for counter. No doubt, it appears outcome of mistake on the part of the trial Court, instead treating no counter or to proceed ex parte under Section 126 Cr.P.C. in dismissal of the same. Impugning the same M.P.No.7 of 2015 was filed to restore by setting aside the dismissal order in MP No.166 of 2015 and the same was allowed on 06.01.2017. It is impugning the same, present revision is filed.

3. No doubt, the trial Court has no inherent power under Section 482 Cr.P.C., for not a civil Court, to exercise inherent powers saved by Section but invoking Section 151 C.P.C. even to restore the application, which was dismissed for default.

4. Thereby, the main revision, impugning the same is with the contention of the trial Court exercised jurisdiction not conferred by law and the impugned order is unjust, unsustainable and is liable to be set aside.

5. Whereas, it is the submission of the learned counsel for the revision respondent/minor, represented by mother that a pragmatic approach once adopted by the trial Court, it requires no interference, for this Court, while sitting in revision.

6. Heard and perused the material on record.

7. From the above, as this Court got inherent power to convert the revision into an application under Section 482 Cr.P.C., to sub-serve the ends of justice, the M.P.No.96 of 2011, which was dismissed for default on 09.02.2015 is restored. However, for the period from date of dismissal till today, the M.C petitioner in the enhancement application is not entitled to any enhanced sum of maintenance.

8. Accordingly, the Criminal Revision Case is disposed of.

9. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:27-02-2017
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