

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3337 OF 2017

ORDER:

Heard Sri M. Karibasaiah, learned counsel for the revision petitioners.

2. Wife and son of respondent No.2 preferred the present Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, aggrieved over the order, dated 06.11.2017, passed in CrI.M.P.No.224 of 2017 in M.C.No.43 of 2017 on the file of XIV Additional District Judge – cum – Additional Family Judge, Vijayawada, whereby and whereunder, the learned Judge, while refusing to grant interim maintenance to petitioner No.1 - wife, awarded a sum of Rs.2,000/- per month towards interim maintenance to petitioner No.2 - son.

3. In fact, in an interim maintenance application, no final right ought to be decided and the learned Judge ought not to have gone into whether petitioner No.1 is entitled to maintenance or otherwise. In such an event, the learned Judge ought to have proceeded with enquiry in the M.C. itself.

4. Now, the question is whether to examine and decide the present revision case, in which case, there would be no material available at all, even if notice is given to respondent No.2.

5. The only way out is to direct the learned XIV Additional District Judge – cum – Additional Family Judge, Vijayawada, to dispose of the main M.C. itself in accordance with law by recording evidence and by examining relevant documents, uninfluenced by the rejection of grant of interim maintenance to petitioner No.1. However, to the extent of Rs.2,000/- per month awarded towards interim maintenance to petitioner No.2 is concerned, the same need not be disturbed and respondent No.2 shall continue to pay Rs.2,000/- per month to petitioner No.2, as ordered by the Court below.

6. Thus, the present Criminal Revision Case is disposed of directing the learned XIV Additional District Judge - cum - Additional Family Judge, Vijayawada, to dispose of M.C.No.43 of 2017 as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order. Both the parties are also directed to co-operate with the Court below for early disposal of the M.C. The Court below is directed to dispose of the M.C. uninfluenced by any of the observations made herein or in the interim order passed by it concerning rejection of interim maintenance to petitioner No.1.

Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

December 22, 2017.
MD