

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.12825 OF 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to set aside the order dated 10.08.2017 passed in CrI.M.P.No.189 of 2017 in M.C.No.123 of 2015 on the of the Judge, Family Court, Ranga Reddy District, whereby all the movable articles i.e. T.V., Fridge, Geysers, Tables, Chairs, Benches, Mixie, Grinders, Plates, Almirahs, Cots, Beds, Fans and any other movable item of Laxmi Boys Hostel, H.No.3-5-786/20/A, Bhugary, Sharagate, King Koti, Hyderabad, were attached.

The case of the petitioner is that the respondent No.1 herein obtained an order in M.C.No.123 of 2015 filed under Section 125 of Cr.P.C., in which the Family Court directed the respondent therein to pay maintenance at the rate of Rs.9,000/- per month from the date of the petition.

To enforce the order, the respondent herein filed a petition under Section 125 (3) of Cr.P.C. On which, the Judge, Family Court passed the impugned order.

The main contention of the petitioner is that she is the owner of the movable items ordered to be attached by the Judge, Family Court and she has nothing to do with the proceedings in M.C.No.123 of 2015 and her movable properties cannot be attached under Section 125 (3) of Cr.P.C. and prayed to set aside the impugned order.

Learned counsel for the petitioner, during hearing, fairly conceded that the petitioner filed a petition before Judge, Family Court on 19.12.2017 to enquire into the matter and raise the

attachment of the movables belonging to the petitioner lying at H.No.3-5-786/20/A, Bhugary, Sharagate, King Koti, Hyderabad, but the same was returned by the Judge, Family Court, calling upon the petitioner to explain as to its maintainability. But the petitioner instead of approaching the Judge, Family Court, filed the present petition invoking the jurisdiction of this Court under Section 482 of Cr.P.C.

The main submission of the learned counsel for the petitioner is that the petitioner is the owner of the subject movable items and she is running hostel in the premises bearing No.3-5-786/20/A, Bhugary, Sharagate, King Koti, Hyderabad and when the petitioner has nothing to do with the maintenance petition, her property cannot be attached.

When the petitioner is claiming that she is the owner of the movable items viz. T.V., Fridge, Geysers, Tables, Chairs, Benches, Mixie, Grinders etc., necessary enquiry has to be made by the Court, and the petitioner herein has to establish that she is the owner of the movable properties by adducing evidence or producing receipts etc., evidencing purchase of those items, but such exercise cannot be undertaken by this Court while exercising power under Section 482 of Cr.P.C.

Therefore, the petitioner is entitled to file an application before the Court below and on filing such application, the Judge, Family Court is directed to enquire into the ownership of the items ordered to be attached and arrive at a conclusion whether those items are belonging to the respondent; otherwise raise such attachment.

The petitioner, though filed application before the Court below, did not represent the same. Therefore, the petitioner is directed to

represent the same or file fresh application before the Court below and on filing such application, the Judge, Family Court is directed to enquire into the ownership of the movable items and pass appropriate orders in accordance with law, as expeditiously as possible.

With the above observations, the petition is disposed of. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

22.12.2017
Ksp

JUSTICE M. SATYANARAYANA MURTHY

