

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.17310 of 2016

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner, to quash the order, dated 22.09.2016, passed in C.R.P.No.39 of 2015 by the Judge, Family Court – cum – VIII Additional District and Sessions Judge, Prakasam at Ongole, whereby and whereunder, the order, dated 08.07.2015, passed in M.C.No.8 of 2009 by the Additional Judicial Magistrate of First Class, Kandukur, granting monthly maintenance of Rs.3,000/- each to the respondents 2 and 3 herein from the date of filing of the petition, i.e., 04.06.2009 till the date of their attaining majority, was confirmed.

2. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner would submit that the learned Magistrate has not assigned any reason for granting maintenance to the respondents 2 and 3 herein from the date of filing the maintenance application. It is not sustainable under law. The learned Magistrate ought to have granted maintenance from the date of the order and ultimately prayed to modify the order of granting maintenance from the date of filing of the petition to the date of order.

4. As seen from the record, the learned Magistrate has discussed the reasons for grant of maintenance from the date of filing of the

petition. The learned Magistrate observed that in spite of having sufficient means, the petitioner/father did not pay maintenance to respondents 2 and 3 herein, who are his two sons, and ultimately granted monthly maintenance of Rs.3,000/- each to the respondents 2 and 3 herein from the date of filing of the petition, i.e., 04.06.2009 till the date of their attaining majority.

5. It is the duty of the father to pay maintenance to his children. There is record to show that no amount was paid by the petitioner to his children during the pendency of the maintenance application. The Court below, while dealing with the maintenance application, held that the minor sons of the petitioner are unable to maintain themselves and there was neglect and refusal on the part of the petitioner, though having sufficient means to maintain them. Therefore, it cannot be said that the Court below ought not to have ordered maintenance during the pendency of the maintenance application. The Court of Sessions has also elaborately dealt with the submissions made before it and answered the same and finally confirmed the order of maintenance granted in favour of the respondents 2 and 3 herein. This Court finds no infirmity in the orders of both the Courts below. There is nothing to take a different view. The Criminal Petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

07th March, 2018
Bvv