

HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL REVISION CASE No. 159 of 2018

ORDER:

Heard the learned counsel for the petitioner as well as the respondents.

Questing the orders passed in I.A.No.697 of 2016 in M.C.No.76 of 2016 dated 28.08.2017 on the file of the Judge, Family Court, Nellore, granting interim maintenance @ Rs.12,500/- and Rs.7500/- to the respondents 2 and 3 respectively, the present criminal revision case is filed.

The facts of the case are that the second respondent herein is the legally wedded wife of the petitioner and the 3rd respondent is their daughter. Their marriage was performed on 06.06.2010 according to the Hindu rites and customs prevalent in their community. However, as there were disputes as well as demand for additional dowry, the respondents 2 and 3 were neglected and at present they are living in the house of the parents of the second respondent. In those circumstances, the respondents 2 and 3 filed maintenance case vide M.C.No.76 of 2016 claiming a sum of Rs.30,000/- and Rs.15,000/- per month towards maintenance. Pending the main case, they have filed an application in I.A.No.697 of 2016 under Section 125(2) Cr.P.C. claiming interim maintenance. In response to the said application, the petitioner herein filed a counter on 21.06.2017. However, the court below passed the impugned order on 28.8.2017 awarding interim maintenance @ Rs.12,500/- and Rs.7500/- per month to the respondents 2 and 3

respectively. In the said orders, it is observed that the petitioner called absent, no representation on behalf of the petitioner and therefore, the petitioner is set ex parte.

The learned counsel appearing for the petitioner would submit that the petitioner filed a counter in reply to the said application on 21.06.2017 itself. Therefore, the order passed by the court below ex parte, is not sustainable. He also would submit that the amount as stated in the impugned order with regard to the income of the petitioner per month is also not correct.

Per contra, the learned counsel for the respondents 2 and 3 supported the impugned orders.

Having regard to the submissions made by both the counsel and from the material on record, it is revealed that the petitioner herein has already filed counter opposing the application filed for grant of interim maintenance. By the time, the impugned orders are passed, the said counter-affidavit is on record. In the counter, the petitioner has stated that he is living with parents in the village. On the other hand, the respondents 2 and 3 are having sufficient property and the second respondent can maintain herself.

Be that as it may, since the impugned order is only with regard to grant of interim maintenance, this Court without going into the merits of the case, inclined to modify the impugned order.

In the result, the criminal revision case is allowed in part. The petitioner is directed to pay a sum of Rs.10,000/- per month and Rs.5,000/- per month to the respondents 2 and 3 respectively

towards interim maintenance till the disposal of the maintenance case on merits. Further, the learned Family Judge, Nellore is directed to dispose of the maintenance case itself on merits as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order.

The miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

P. KESHAVA RAO,J

Date:12.06.2018
Ccm



HONOURABLE SRI JUSTICE P. KESHAVA RAO



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