

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.1782 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/husband, to quash the order, dated 02.08.2017, passed in CrI.R.P.No.52 of 2016, by the II Additional District and Sessions Judge, Madanapalle, Chittoor District, whereby and whereunder, the order, dated 25.04.2016, passed in M.C.No.21 of 2015, by the Special Magistrate, Madanapalle, Chittoor District, granting monthly maintenance of Rs.5,000/- to the 1st respondent/wife and Rs.2,000/- to the 2nd respondent/minor son was confirmed.

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

3. The learned counsel for petitioner would submit that monthly maintenance of Rs.5,000/- granted in favour of 1st respondent and Rs.2,000/- in favour of 2nd respondent is excessive. The petitioner is unemployed. He has no means to maintain himself. The respondent No.1 herein left the petitioner's house on her own. The case registered for the offence under Section 498-A of I.P.C. ended in acquittal in favour of the petitioner and ultimately prayed to allow the application by setting aside the orders passed by both the Courts below.

4. The learned Assistant Public Prosecutor opposed the application.

5. The point for determination is whether the order, dated 25.04.2016, passed in M.C.No.21 of 2015, by the Special Magistrate, Madanapalle, Chittoor District, granting maintenance to the respondents 1 and 2 is liable to be quashed, so also the order, dated 02.08.2017, passed in CrI.R.P.No.52 of 2016, by the II Additional District and Sessions Judge, Madanapalle, Chittoor District.

6. As per the records produced before this Court, there is matrimonial relation between the petitioner and the 1st respondent. The 2nd respondent is the son of the petitioner. The petitioner studied B.Tech., and also completed M.Tech. There is evidence that the 1st respondent was mentally and physically tortured and driven out from the house by the petitioner. There are many instances which reflect that the petitioner subjected the 1st respondent to mental and physical cruelty. Therefore, the 1st respondent has left to her parents' house along with 2nd respondent (son). The petitioner is working as a lecturer in an engineering college and gets a monthly salary of Rs.50,000/-. Respondents 1 and 2 cannot be left to the mercy of the parents of 1st respondent. As seen from the record, the petitioner has sufficient means to maintain respondents 1 and 2. The petitioner is guilty of driving respondents 1 and 2 away from his company. Now-a-days, cost of living is very high. Monthly maintenance of Rs.5,000/- to the 1st respondent and Rs.2,000/- to the 2nd respondent appears to be quite reasonable and moderate. It is the duty of the petitioner to maintain his wife and son. He cannot shun it for any reason. Under these circumstances, it cannot be held that the order of maintenance granted in favour of

respondents 1 and 2 is excessive. Both the Courts below have appreciated all the facts and circumstances of the case and rightly awarded maintenance as mentioned above. This Court does not see any infirmity in the reasoned orders of both the Courts below warranting interference under Section 482 of Cr.P.C. The Criminal petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed.

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

16th February, 2018
Bvv

Dr. SHAMEEM AKTHER, J

