

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.776 OF 2018

ORDER:

This Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.435 of 2015 in M.C.No.35 of 2015, dated 26.06.2015 on the file of I Additional Judicial Magistrate of First Class at Huzurabad, granting interim maintenance at the rate of Rs.15,000/- per month to the 2nd respondent herein, pending the main M.C.

Heard the learned counsel for the petitioner. Though personal notice was served on the 2nd respondent on 30.06.2018 as per the track consignment, there is no representation on her behalf.

The facts of the case are that the 2nd respondent herein filed M.C.No.35 of 2015 against the petitioner claiming a sum of Rs.35,000/- per month towards her maintenance, on the file of I Additional Judicial Magistrate of First Class at Huzurabad. Pending the M.C., she has filed a petition vide CrI.M.P.No.435 of 2015 claiming interim maintenance at the same rate as claimed in main M.C. The said petition was partly allowed on 26.06.2015 awarding interim maintenance at the rate of Rs.15,000/- per month till the disposal of the main M.C. Aggrieved by the said order, the present revision is filed.

The counsel appearing for the petitioner would contend that the petitioner has not been given any opportunity to contest the petition while awarding the interim maintenance. From a perusal of the order also, it is clear that the petitioner was not given any

opportunity. The counsel also brought to the notice of the Court that the 2nd respondent suppressed the filing of the proceedings in D.V.C. No.43 of 2015 on the file of II Additional Judicial Magistrate of First Class, Huzurabad.

Having heard the counsel for the petitioner and also after going through the record, the undisputed facts are that the 2nd respondent herein filed M.C.No.35 of 2015 before the Court below. Pending the said M.C., she filed CrI.M.P.No.435 of 2015 claiming interim maintenance. A perusal of the order would indicate that no notice was given and no opportunity of being heard is given to the petitioner. Further the awarding of Rs.15,000/- per month towards interim maintenance is only a temporary measure taken out by the Court below to the 2nd respondent to get over the difficulties during the pendency of the main case. The order does not indicate as to the financial status of the petitioner herein and there is no appreciation with regard to the monthly income of the petitioner. Be that as it may, when an opportunity of being heard is not given to the petitioner, the impugned order passed by the Court below cannot be sustained in the eye of law.

Accordingly, the Criminal Revision Case is allowed setting aside the order passed in CrI.M.P.No.435 of 2015 in M.C.No.35 of 2015, dated 26.06.2015 on the file of the I Additional Judicial Magistrate of First Class at Huzurabad.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHAHA RAO,J

09th JULY 2018.
Tsr

