

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1055 of 2018

ORDER:

Heard the learned counsel appearing for the petitioner and the respondents 2 and 3.

The present revision case is filed questioning the orders dated 07.12.2017 passed in M.C.No. 68 of 2016 on the file of the Court of the Judge, Family Court, at Khammam, awarding maintenance @ Rs.5,000/- per month to each to the respondents 2 and 3.

The facts of the case are that the respondents 2 and 3 herein filed M.C.No.68 of 2016 against the petitioner herein claiming a sum of Rs.5,000/- per month to each of the respondents 2 and 3 towards maintenance on the file of the Court of the Family Judge, at Khammam. Though several opportunities are given to the petitioner herein to file counter, he failed to do so. Consequently, he was set *ex parte* and orders were passed on 7.12.2017 granting maintenance @ Rs.5,000/- per month to each of the respondents 2 and 3 from the date of filing of the petition. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel appearing for the petitioner, would contend that since the petitioner's mother was suffering with illness, he could not contact his counsel and file counter and contest the matter. In those circumstances, he suffered an *ex parte* order which is liable to be set aside.

Per contra, the learned counsel for the respondents 2 and 3, brought to the notice of this Court that the petitioner herein is in the habit of taking cause of ill-health of his mother and whenever the

payment of maintenance is taken up, he is not appearing before the Court. Therefore, he sought that no indulgence can be shown.

Having heard both the learned counsel and a perusal of the material on record, it is revealed that the petitioner though entered appearance by engaging a counsel, has not filed his counter and contested the maintenance case. As far as ascertaining the financial capacity and the income of the petitioner herein, there was no sufficient material before the Court below for fixing the maintenance @ Rs.5,000/- per month to each of the respondents 2 and 3. A perusal of the impugned order would indicate that the petitioner made his appearance on 27.02.2017 and the matter underwent several adjournments, but he did not file his counter. Therefore, an opportunity was given to the petitioner to contest the case. Even then, the petitioner, has not availed the said opportunity. Therefore, final orders were passed on 7.12.2017. However, unless and until the petitioner is given an opportunity, he will not be able to justify the cause for granting maintenance @ Rs.5,000/- per month to each of the respondents 2 and 3. Thus, this Court deems it appropriate to give an opportunity to the petitioner but subject to terms.

In these circumstances, the criminal revision case is allowed setting aside the orders dated 07.12.2017 passed in M.C.No. 68 of 2016 on the file of the Court of the Judge, Family Court, at Khammam subject to the petitioner paying a sum of Rs.10,000/- to the second respondent within four weeks from the date of receipt of a copy of this order. However, in the peculiar facts and circumstances of the case, the petitioner is directed to pay interim

maintenance of Rs.3,000/- per month and Rs.2,000/- per month to the respondents 2 and 3 respectively till the disposal of the maintenance case in the Court below. The learned Family Judge is directed to dispose of the maintenance case within a period of six months from the date of receipt of a copy of this order. The petitioner is also directed to pay the arrears of maintenance accrued till date within a period of four weeks at the above said rate, failing which, it is open to the respondents 2 and 3 to take steps for execution, as per law.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA VA RAO, J

Date: 18.07.2018.
CCM



HON'BLE SRI JUSTICE P. KESHA RAO



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