

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 6568 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the order dated 27-03-2018 in Criminal Revision Petition No. 90 of 2016 on the file of the Court of II Additional District and Sessions Judge, Kurnool at Adoni (for short, 'the Court below'), whereby it affirmed the order dated 15-09-2016 in M.C.No. 37 of 2011 on the file of the Court of I Additional Judicial Magistrate of I Class, Adoni (for short, 'the trial Court'), granting maintenance @ Rs.3,000/- p.m. to respondent Nos. 2 and 3 each while declined maintenance to respondent No. 1.

2. Respondent Nos. 1 to 3 filed M.C.No. 37 of 2011 before the trial Court for grant of maintenance @ Rs.5,000/- p.m. to respondent No. 1 and @ Rs.3,000/- p.m. to respondent Nos. 2 and 3 each alleging that the petitioner herein refused and neglected to maintain them having substantial property and earning substantial income from it while respondent Nos. 1 to 3 did not possess any independent source of income. During inquiry, P.Ws.1 to 4 were examined and Exs.P1 to P3 were marked on behalf of respondent Nos. 1 to 3 and on behalf of the petitioner, R.Ws.1 and 2 were examined and Exs.R1 to R9 were marked. Upon hearing argument of both counsel, the trial Court dismissed the claim of respondent No. 1 on the ground that she failed to prove the reason for her separate living while awarded maintenance @ Rs.3,000/- p.m. to respondent Nos. 2 and 3 each. Feeling aggrieved, the petitioner preferred revision before the Court below. The Court below by the impugned order affirmed the order passed by the trial Court.

3. Aggrieved thereby, the petitioner filed the present petition on the ground that the amount awarded as maintenance to respondent Nos. 2 and 3 is excessive and passed the award without considering his financial capacity and without going into the defence set up by him. He also raised a specific contention justifying the reason recorded by the trial Court in negating the relief to respondent No. 1 which is irrelevant for deciding the controversy in the present petition.

4. During hearing, learned counsel for the petitioner has contended that the petitioner possessed only Ac. 6.00 cents of land and that therefore awarding Rs.3,000/- p.m. as maintenance to respondent Nos. 2 and 3 is excessive and beyond the financial capacity of the petitioner.

5. The relationship between the petitioner and respondent Nos. 1 to 3 is not in dispute. So long as respondent Nos. 2 and 3 attain majority, the petitioner, being the father, is under legal obligation to provide maintenance to them. There is any amount of justification in denying maintenance to respondent No. 1 by the petitioner subject to proof that respondent No. 1 is living separately without any justifiable or reasonable cause or she is living in adultery. Therefore, the trial Court dismissed the claim of respondent No. 1 and the same was attained finality but there is no justification to deny maintenance to respondent Nos. 2 and 3 who are minors and school going children and not in a position to earn anything for their livelihood. Therefore, the petitioner, being the father, is under obligation to maintain respondent Nos. 2 and 3.

6. The only contention raised before this Court is that the petitioner is an agriculturist owning Ac. 6.00 cents of land and thereby the amount awarded as maintenance is excessive. Respondent Nos. 2 and 3, being the children of the petitioner, are expected to lead the same standard of life which the petitioner is

leading. While granting maintenance, the Court has to take into consideration price index, cost of living and standard of living of father. If price index, standard of living and income of the petitioner are taken into consideration, granting maintenance @ Rs.3,000/- p.m. to respondent Nos. 2 and 3 each is reasonable and in commensurate with the standard of living of the petitioner.

7. For the aforementioned reasons, I find no ground to interfere with the impugned order and the criminal petition fails and the same is liable to be dismissed.

8. The criminal petition is accordingly dismissed. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 26-06-2018.
JSK

M.SATYANARAYANA MURTHY, J.

