

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.5943 of 2018

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed questioning the Order dt. 16.10.2017 in CrI.M.P.No.556 of 2016 in M.C.No.04 of 2016 passed by Additional Metropolitan Sessions Judge for trial of JHCBBC-CUM-Additional Family Court, Hyderabad, granting interim maintenance of Rs.7,000/- to respondent Nos. 3 to 5 herein, who are the children of the petitioner herein.

The case of the respondents herein is that respondent No.2 is the wife and respondents Nos. 3 to 5 are the children of the petitioner herein and their contention is that the petitioner herein failed to provide necessary maintenance to the respondents and claimed interim maintenance @ Rs.10,000/- per each of the respondent Nos. 2 to 5 herein.

The petitioner herein as respondent before the Magistrate filed Counter affidavit denying the material allegations *inter alia* contending that respondent No.2 was working as Doctor and earning Rs.70,000/- per month and prayed to dismiss the petition, but the trial Court having concluded that respondent No.2 is a medical doctor and denied interim maintenance to her while granting Rs.7000/- to the respondent Nos. 3 to 5 herein, who are the children of the petitioner and respondent No.2, from the date of petition till the date of disposal of the maintenance case.

Aggrieved by the Order granting interim maintenance by the trial Court, the present petition is filed on various ground, but mainly on the ground that the amount awarded as interim maintenance of Rs.7,000/- to R.3 to R.5 herein is excessive and that respondent No.3 herein attained

majority as on the date of passing the order and requested to pass appropriate orders.

Undisputedly, the petitioner is a business man and respondent No.2 herein is a medical Doctor. Granting maintenance to the children is not in dispute. However, the only dispute is with regard to the entitlement of respondent No.2 herein i.e., wife of the petitioner, who is practising as Doctor. The trial Court accepted the contention of the petitioner herein and denied maintenance to her, but granted maintenance to the children. According to Section 125 Cr.P.C., only wife, children and parents are entitled to claim maintenance subject to proof of other conditions, but the children during their minority or till they attain majority. Here, respondent No.3 was aged 17 years as on the date of filing Crl.M.P.No.56 of 2016 in M.C.No.4 of 2016, but the Order was passed on 16th of October, 2017 by which time respondent No.3 herein became major and from the date of attaining majority, he is disentitled to claim maintenance as per Section 125 Cr.P.C., Order of granting maintenance to respondent No.3 herein is limited i.e. till he attains majority. The respondent Nos. 4 and 5 are minors as on today and they are entitled to claim interim maintenance.

The other contention raised before this Court is that the interim maintenance awarded to Respondent Nos. 4 and 5 is excessive, but the respondents being the children of medical doctor and business man are expected to maintain the same standard of life as their father leading and taking into consideration, the present cost of living and price index and to lead the standard of life being led by their father i.e., the petitioner herein, the maintenance of Rs.7000/- to each Respondent No.4 and 5 is just and reasonable. Therefore, I find no ground to hold that Rs.7000/-

awarded to respondent Nos. 4 and 5 towards interim maintenance as excessive.

In view of my foregoing discussion, granting maintenance to respondent No.3 is limited to the period till he attains majority while confirming interim maintenance of Rs.7000/- per month granted to Respondent Nos. 4 and 5 herein.

With the above observation, this Criminal Petition is allowed in part.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

Date: 13-06-2018
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M. SATYANARAYANA MURTHY, J



HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



Crl.P. No.5943 of 2018

Dt. 13-06-2018

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