

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO.1398 OF 2018

ORDER:

1. Heard the learned counsel for the petitioner as well as the learned counsel for respondent No.1.
2. The present Criminal Revision Case is filed questioning the docket order dated 12.3.2018 in CrI.M.P.No.826 of 2016 in M.C.No.245 of 2014 on the file of the Court of the Judge, Principal Family Court, Vijayawada, directing the petitioner herein to pay the arrears of Rs.1,54,000/-.
3. The facts in brief are that respondent No.1 herein filed M.C.245 of 2014 against the petitioner herein claiming a sum of Rs.25,000/- p.m. on the file of the above said Court. However, since the notice could not be served on the petitioner herein, the substituted service was taken out and consequently, the petitioner was set ex-parte on 19.1.2015 and M.C. was allowed directing the petitioner to pay monthly maintenance of Rs.14,000/- p.m. towards maintenance from the date of the order. The petitioner herein, after coming to know about the passing of the ex-parte order, filed CrI.M.P.No.1000 of 2015 to condone the delay of 173 days along with a petition to set aside the said ex-parte order. When the said two petitions are pending, respondent No.1 herein filed CrI.M.P.No.826 of 2016 claiming arrears of maintenance at Rs.1,54,000/- . In the said petition, the trial court, on 12.3.2018, directed the petitioner to pay the amounts and posted the matter to

19.4.2018. Questioning the said docket order dated 12.3.2018, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner contended that the petitioner is not aware of the orders passed in the main case. Immediately, after coming to know, he filed CrI.M.P.No.1000 of 2015 to condone the delay of 173 days in filing a petition to set aside the ex-parte order dated 19.1.2015. When the said petition is pending consideration, the Court below cannot insist the petitioner to pay the arrears of maintenance as claimed in CrI.M.P.No.826 of 2016.

5. Per contra, learned counsel for respondent No.1 brought to the notice of this Court the docket proceedings in CrI.M.P.No.826 of 2016 that the petitioner herein is not co-operating with the disposal of the petition.

6. However, a perusal of the said docket order in the above said Criminal M.P. will not reveal that the petitioner alone is dragging on the proceedings. In fact, when a petition is pending consideration to set aside an ex-parte order with a delay condonation petition, learned Family Court ought to have disposed of the said petition. Be that as it may, since CrI.M.P.No.826 of 2016 has already been taken up and an order has been passed, this Court feels that the main M.C. itself can be disposed of after passing appropriate orders in CrI.M.P.No.1000 of 2015 for condoning the delay and also to set aside the ex-parte decree dated 19.1.2015.

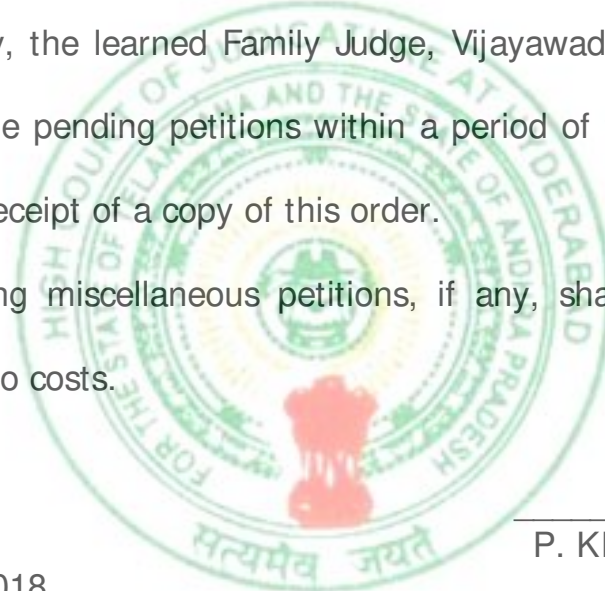
7. As per the orders dated 19.1.2015, the total arrears of maintenance @ Rs.14,000/- p.m., would come to Rs.6,02,000/-. It

is brought to the notice of this Court that the petitioner has already paid Rs.1,14,000/-. In these circumstances, this Court is of the opinion that subject to payment of some amounts towards maintenance pursuant to the orders passed on 19.1.2015, learned family Judge may dispose of the pending petitions as well as the maintenance case itself within a stipulated period.

8. Accordingly, the Criminal Revision Case is allowed by setting aside the docket order dated 12.3.2018, subject to payment of Rs.1,50,000/- within a period of eight weeks from today. Consequently, the learned Family Judge, Vijayawada, is directed to dispose of the pending petitions within a period of two weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.



P. KESHA VA RAO,J

Date: 20.7.2018

KPM