

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.6517 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C., questioning the docket order dated 03.04.2018 passed by the Judicial Magistrate of First Class, Podili, Prakasam District in Crl.M.P.No.866 of 2017 in M.C.No.17 of 2016, whereby the Magistrate set aside the *ex parte* order passed against the petitioner on payment of costs of Rs.10,000/- payable to respondents 1 to 3 herein as the petitioner is responsible for the delay in proceeding with the matter.

2. In the present petition, it is contended by the petitioner that imposition of costs of Rs.10,000/- is harsh and that he was not present in the house when the notice was tendered to him and thereafter, the post man returned the notice without waiting for seven days and therefore, there is no fault on his part. Hence, he sought to set aside the *ex parte* order. The trial Court having accepted the contention of petitioner imposed heavy costs of Rs.10,000/- payable to respondents 1 to 3.

3. During hearing, learned counsel for the petitioner requested this Court to set aside the order impugned on the same ground.

4. Imposition of costs of Rs.10,000/- is harsh in a maintenance case filed under Section 125 of Cr.P.C., more particularly, when the petitioner is pleading that he is unable to pay maintenance to the wife and children. He remained *ex parte* as he was absent at the time when the notice was tendered by the postman to the inmates of

the petitioner's house. However, imposition of costs of Rs.10,000/- while accepting that the petitioner was prevented by sufficient cause is illegal and harsh. Hence, the costs of Rs.10,000/- imposed by the Court below is reduced to Rs.3,000/- payable by the petitioner to respondents 1 to 3.

5. With the above modification, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed.

25th June, 2018

sj

M. SATYANARAYANA MURTHY, J

