

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.494 of 2017

ORDER:

Challenging the order dated 04.11.2016 in Crl.M.P.No.940/2016 in M.C.No.124/2016 on the file of Additional Metropolitan Sessions Judge for the Trial of Jubilee Hills Car Bomb Blast Case-cum-Family Court-IX Metropolitan Sessions Judge, Hyderabad, awarding interim maintenance of Rs.25,000/- p.m to the 2nd respondent herein from the date of petition i.e, 18.04.2016, the petitioner preferred the instant Crl.R.C.

2) The facts in narrow compass are that the petitioner and 2nd respondent were married on 18.05.2009 and subsequently disputes cropped up between them. The petitioner is now working at Manchester in UK. The respondent it appears, on the allegation that the petitioner and his family members harassed her for additional dowry and other paraphernalia filed DVC No.6/2012. She also gave complaint against them under Sections 498-A, 420 IPC and Sections 3 and 4 of D.P. Act and the same was registered as Crime No.15/2012 of Women PS, Warangal. Be that it may, the respondent filed M.C No.124/2016 claiming maintenance. In the said M.C, she filed Crl.M.P.No.940/2016 for grant of interim maintenance @ Rs.2,30,000/- p.m. In spite of service of notice, there was no representation for the petitioner herein. Hence the Trial Court set him

ex parte and awarded interim maintenance @ Rs.25,000/- p.m from the date of petition.

Hence the instant Crl.R.C.

- 3) Heard both sides.
- 4) The submission of learned counsel for petitioner is that the Trial Court without considering the facts, awarded a huge amount of Rs.25,000/- p.m as interim maintenance and since the order is an *ex parte* order, an opportunity may be given to the petitioner to file counter and contest the interim petition as well as main M.C.
- 5) Opposing the Crl.R.C, the 2nd respondent, who appeared as party-in-person would submit that inspite of serving notice and granting time, the petitioner herein failed to file his counter and in those circumstances, the Trial Court heard her and passed an interim maintenance which in fact is only a pittance as against her claim for Rs.2,30,000/- p.m. The Trial Court ought to have awarded the amount as claimed by her, having regard to the financial status of the petitioner and wretched plight of her. Therefore, she filed Crl.R.C.No.2483/2017 before this Court seeking enhancement of interim maintenance awarded by the lower Court.
- 6) The impugned order shows that the factum of marriage between the parties was not in dispute. The order would further show that inspite of service of notice, the petitioner herein did not appear and file his counter before the Trial Court. In those circumstances, the

Trial Court set him *ex parte* and having heard the 2nd respondent herein, awarded interim maintenance @ Rs.25,000/- p.m from the date of petition. Therefore, though the 2nd respondent vehemently argued that the order impugned was not an *ex parte* order, the same cannot be countenanced. Since the order is an *ex parte* order, this Court is of the view that an opportunity should be accorded to the petitioner to appear before the lower Court and contest the interim maintenance petition as well as main M.C, ofcourse on suitable terms.

7) In the result, this Crl.R.C is allowed and order dated 04.11.2016 in Crl.M.P.No.940/2016 is set aside and petitioner herein is permitted to appear before the Trial Court and contest the interim maintenance petition as well as main M.C. on the condition of his depositing interim maintenance @ Rs.20,000/- p.m from 18.04.2016 i.e, the date of filing of interim maintenance petition till disposal of M.C. The petitioner shall deposit arrears of interim maintenance accrued till date within eight (8) weeks from the date of this order and shall continue to deposit @ Rs.20,000/- p.m by 5th of every succeeding month. The amount paid by him, shall be adjusted in the final maintenance. He shall file counters in interim maintenance application and main M.C. within six(6) weeks from the date of this order. Upon filing his counters, the Trial Court shall dispose of the interim maintenance application on merits expeditiously without being influenced by the amount tentatively awarded by this Court to the 2nd respondent. Needless to emphasize, the 2nd respondent herein is at liberty to claim

and establish her entitlement of interim maintenance @ Rs.2,30,000/- p.m as originally claimed by her and the petitioner has right to oppose the same. Failing to comply any of the above conditions by the petitioner, this order shall be deemed cancelled.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 18.06.2018
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