

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.9121 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. questioning the order dated 17.07.2018 in Crl.M.P.No.675 of 2018 in M.C.No.323 of 2018 passed by the Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family court-cum- XXIII Additional Chief Judge-cum-IX AMSJ, Hyderabad, granting interim maintenance under Section 125(1) Cr.P.C at the rate of Rs.10,000/- per month to the wife of the 1st petitioner-Vineela Kanneboina, on various grounds.

The 1st respondent and the 2nd respondent-Master Chirra Angad, minor son of the petitioner filed petition under Section 125 Cr.P.C. for grant of maintenance alleging that the petitioner herein neglected to maintain respondents having sufficient means and that the respondents pleaded that they did not possess any independent means to maintain themselves.

During pendency of maintenance case, respondents filed Crl.M.P.No.675 of 2018 for grant of maintenance pendente lite on the ground that they did not possess any income to lead their normal life to lead same standard of life as maintained the petitioner and that the petitioner is working as Project Manager in TCS and earning Rs.18 lakhs per annum and the 1st respondent has no means to maintain herself.

The Court below after taking in to consideration, awarded Rs.10,000/- interim maintenance to the 1st respondent and the same is assailed in the present petition on the ground that A1 is highly educated and worked for some time as a software engineer in IT company and she can earn income for her livelihood, but the Court below failed to take into consideration of the educational qualification and her previous employment and awarding Rs.10,000/- per month to the 1st respondent is erroneous.

During hearing, learned counsel for the petitioner reiterated the contentions urged in the petition.

There is no dispute regarding relationship between the petitioner and the respondents and they are living separately and that the petitioner also did not dispute as to his employment as Project Manager in TCS. the petitioner stated that he is earning Rs.65,000/- only as take home pay after deducting house loan etc. In ***Dr.Kulbhushan Kumar v. Raj Kumari***¹ the Apex Court held that the wife is entitled to claim 1/4th of the net salary of her husband as maintenance and the same principle is reiterated in ***Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy***².

In view of the principles laid down in the above judgments, though it is under Section 24 of the Hindu Marriage Act for grant of interim maintenance, the same principle applicable to the proceedings under Section 125(1) Cr.P.C., which is identical to Section 24 of the Hindu Marriage Act, since both provisions deals with interim maintenance. Therefore, applying the above principle, I find that the amount awarded by the Court below as interim maintenance during pendency of the M.C., is just and reasonable. Taking into consideration of present price index and the 1st respondent is expected to lead the same standard of life that her husband is leading.

In the result, the criminal petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M.SATYANARAYANA MURTHY,J

28.08.2018
kvrm

¹ (1970) 3 SCC 129

² AIR 2017 SC 2383