

HON' BLE SRI JUSTICE G. SHYAM PRASAD

CrI.R.C.No. 2994 of 2018

JUDGMENT:-

This Criminal Revision Case arises out of the Order dated 26.07.2018 in I.A. No. 1328 of 2017 in F.C.O.P.No. 1224 of 2017 passed by IV Additional District Judge-cum-I Additional Family Judge, L.B.Nagar, Panga Reddy District.

The 1st respondent has filed F.C.O.P.No. 1224 of 2017 under Section 13(1)(i-a) & Section 25 of the Hindu Marriage Act, 1955 (for brevity "the Act") read with Section 7 of the Family Courts Act seeking for decree of divorce dissolving the marriage between the petitioner and the 1st respondent solemnized on 14.03.2012 and other reliefs. Along with F.C.O.P. the 1st respondent has filed I.A.No. 1328 of 2017 under Section 24 of the Act seeking maintenance of Rs.20,000/- p.m., and the learned Family Judge, by the impugned order dated 26.07.2018, directed the petitioner herein to pay interim maintenance of Rs.10,000/- p.m. till disposal of the main F.C.O.P. Challenging the same, the Criminal Revision Case is filed.

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the 2nd respondent-State and perused the material placed on record.

The learned counsel for the petitioner has contended that the petitioner has no capacity to pay any maintenance to the 1st respondent and he has no source of income and the 1st respondent has not filed any proof to show that the petitioner has got any source of income.

The order under challenge is interlocutory in nature and the same was passed under Section 24 of the Act. Section 24 of the Act makes a provision for maintenance *pendent elite* and expenses of proceedings, which reads as under:

“Where in any proceeding under this Act it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner’s own income and the income of the respondent, it may seem to the Court to be reasonable.

[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.]”.

By virtue of the interlocutory order passed by the trial Court an interim arrangement is made till disposal of the main F.C.O.P. Therefore, the petitioner cannot seek suspension of the impugned order passed in I.A. No. 1328 of 2017 in F.C.O.P.No. 1224 of 2017 on the file of the Court of IV

Additional District Judge-cum-I Additional Family Judge,
L.B.Nagar, Ranga Reddy District.

It is also pertinent to note that the learned counsel for the petitioner has raised questions of fact which can be decided only after evidence is adduced and the documents filed by both the parties are looked into. In view of the foregoing reasons, the trial Court is directed to dispose of F.C.O.P.No.1224 of 2017 itself on merits by deciding rights of the parties, expeditiously, preferably within a period of two months. Therefore, no interim relief, at this stage, can be granted to the petitioner.

With the above observations, the Criminal Revision Case is disposed of.

The Registry is directed to return certified copy of the impugned order dated 28.07.2018 in I.A.No. 1328 of 2017 in F.C.O.P.No. 1224 of 2017 on the file of the Court of IV Additional District Judge-cum-I Additional Family Judge, Ranga Reddy District to the petitioner's counsel.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G.SHYAM PRASAD,J

05.11.2018

Note:- Furnish copy in two days

b/o

bcj