

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.10733 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. seeking to quash the order dated 22.09.2017 in Criminal Revision Petition No.73 of 2016 on the file of the IV Additional District & Sessions Judge, West Godavari at Tanuku, whereby the order dated 03.06.2016 in Maintenance Case No.39 of 2012 on the file of the II Additional Judicial Magistrate of First Class, Tanuku granting maintenance to respondents 2 and 3, who are wife and son respectively, of petitioner, was confirmed.

2. Learned counsel for the petitioner would submit that the maintenance granted in favour of respondents 2 and 3 is on higher side; that the petitioner, being natural father, is entitled for custody of respondent-son and he filed G.O.P. no.68 of 2014 on the file of the Principal District Judge, West Godavari at Eluru for custody of respondent-son; that respondent No.2 is capable of doing job and there is no cruelty meted out to her to live separately; that the respondents 2 and 3 are not entitled for maintenance, and ultimately quash the impugned order.

3. On the other hand, learned counsel for the respondents-wife and son would submit that the Courts below have elaborately dealt with the contentions raised on behalf of the petitioners and ultimately granted maintenance to respondents 2 and 3, and there is no infirmity in the orders passed by the Courts below, ultimately, prayed to dismiss the Criminal Petition.

4. In view of the contentions put forth by both sides, the point for determination is whether there are any grounds to

interfere with the impugned order dated 22.09.2017 in Criminal Revision Petition No.73 of 2016 on the file of the IV Additional District & Sessions Judge, West Godavari at Tanuku ?

5. Respondents 2 and 3 are wife and son respectively, of the petitioner. The trial Court, vide its order dated 03.06.2016 in M.C. No.39 of 2012 on the file of the II Additional Judicial Magistrate of First Class, Tanuku, granted maintenance @ Rs.25,000/- each to respondents 2 and 3. The said order was confirmed by the learned Sessions Judge vide the impugned order dated 22.09.2017 in Criminal Revision Petition No.73 of 2016 on the file of the IV Additional District & Sessions Judge, West Godavari at Tanuku.

6. As per the submissions made before this Court, the petitioner is a Government employee and his monthly income is Rs.1,10,000/-. The contention advanced on behalf of the petitioner is that he has old aged parents and he has to support them financially. As per the record, respondent No.3 is mentally retarded person (suffering from autism) and requires continuous medical treatment and supervision. Under these circumstances, there is no possibility for respondent No.2 to go out and make her living. There are specific and grave allegations against the petitioner as regards subjecting respondent No.2 to mental and physical cruelty and forcing her to live separately. There is also evidence to show that the petitioner was having severe hormone and PCOD problems and respondent No.3 was born to them and suffering from ill-health from the date of his birth. On that score also, respondent No.2 was mentally and physically harassed. There is also evidence with regard to demand of additional dowry. These allegations were substantiated during enquiry in the Maintenance Case. Both the Courts below appreciated the same and rightly held that the petitioner is liable to pay

maintenance to respondents 2 and 3. There is ample oral and documentary evidence to believe that there was willful and deliberate negligence on the part of the petitioner in maintaining his wife and son.

7. As regards the quantum, as per the record, petitioner is earning Rs.1,10,000/- per month. Considering the facts and circumstances of the case, the trial Court granted Rs.25,000/- each to respondents 2 and 3 towards maintenance and the learned Sessions Judge confirmed the same in the revision. Both the Courts below gave reasons in doing so. When the petitioner is getting huge monthly income of Rs.1,10,000/- and when there is ample evidence to show that respondent No.3 is mentally retarded and requires continuous medical attention, awarding of maintenance @ Rs.25,000/- each to his wife and son, cannot be said to be exorbitant. There is no infirmity in the impugned order. The submissions made on behalf of the petitioner are unsustainable. The Criminal Petition is devoid of merit and liable to be dismissed.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous Petitions pending, if any, in this Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

.03.2018

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