

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.R.C.No.3191 of 2018

ORDER:

This revision is arising out of the order dated 16.07.2018 passed in Crl.M.P.No.833 of 2018 in M.C.No.215 of 2017 by the learned Additional Metropolitan Sessions Judge, Hyderabad.

2. Brief facts of the case are that :

The petitioner is the respondent in M.C.No.215 of 2017. The 2nd respondent herein is his wife and she has filed above mentioned M.C. before the trial Court under Section 125 (1) Cr.P.C. claiming maintenance of Rs.25,000/-. She has also filed a petition in Crl.M.P.No.833 of 2018 under Section 125(1) of Cr.P.C. claiming interim maintenance. The trial Court, on consideration of the material, has granted maintenance of Rs.5,000/- from the date of petition i.e., 11.5.2017. Being aggrieved, the petitioner has preferred the present revision.

3. Heard the learned counsel for the petitioner at the stage of admission.

4. Learned counsel for the petitioner submits that there is discrepancy in the order passed by the trial Court in respect of the maintenance amount. In para-8 of the order, the trial Court observed that it is just and reasonable to

award maintenance of Rs.6,000/- per month to the petitioner from the date of petition i.e., 04.08.2017. And in para-9 of the order, the trial Court granted interim maintenance to the 2nd respondent @ Rs.5,000/- per month from the date of petition i.e., 11.05.2017.

5. As far as this discrepancy is concerned, the petitioner has a remedy to approach the trial Court by way of filing a review petition for getting the clarification from the trial Court. On this ground, the petitioner cannot seek for setting aside the order of maintenance granted by the trial Court.

6. Learned counsel further submits that the petitioner is a handicapped person and he is working in D.R. Motors, as agent of Two Wheelers and he was drawing a monthly salary of Rs.5,000/-. He has filed his salary certificate before the trial Court. The same was not considered by the trial Court, and granted interim maintenance of Rs.5,000/- per month to the 2nd respondent. He further submits that the petitioner is unable to pay the interim maintenance and therefore the order of granting interim maintenance may be suspended.

7. As far as this contention is concerned, the petitioner has filed this revision against CrI.M.P.No.833 of 2018 which was filed under Section 125(1) Cr.P.C. claiming interim maintenance. As far as interim maintenance is concerned, it is only subject to the result of the orders in the main case.

8. In view of the fact that the 2nd respondent has claimed maintenance of Rs.25,000/- under Section 125 Cr.P.C., however, the trial Court has granted interim maintenance of Rs.5,000/- per month. The petitioner has filed his salary certificate showing that he was drawing a salary of Rs.5,000/- per month, and as far as his salary is concerned, it is subject to proof of the said fact.

9. Learned counsel for the petitioner submits that the 2nd respondent is having a tailoring shop in her name and she has sufficient means to maintain herself. To this effect, learned counsel has placed reliance on a Photostat copy of photograph of the said tailoring shop, which shows that the name of "Kavitha" i.e., the 2nd respondent was on the board of the shop. As far as this aspect is concerned, the trial Court has to decide whether the 2nd respondent has placed any material to prove that fact. The photograph cannot be taken into consideration in deciding her income .

10. In view of the fact that the trial Court has granted only interim maintenance of Rs.5,000/- per month, the same does not require any interference in this revision petition.

11. However, the petitioner is given liberty to move a petition before the trial Court for clarification with regard to the discrepancy in the amount of maintenance awarded by it. On such petition being filed by the petitioner, the trial Court may consider the same basing on the evidence and the proof

with regard to the salary of the petitioner and pass appropriate orders in accordance with law.

12. In view of the above discussion, there are no merits to interfere with the order passed by the trial Court.

13. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous Petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J.

Date : 23-11-2018.

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