

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.7240 of 2017

ORDER : (Oral)

Vide the present petition, the petitioner has challenged the order dated 11.10.2017, passed in E.P.No.151 of 2015 in I.A.No.1603 of 2003 in H.M.O.P.No.36 of 2003, by the I-Additional District Judge, Guntur.

2. In M.C.No.82 of 1996 under Section 125 Cr.P.C., maintenance amount of Rs.2,000/- was awarded to the respondent herein. Thereafter, the revision petitioner filed divorce petition and under Section 24 of Hindu Marriage Act, a *pendentelite* amount of Rs.5,000/- per month was awarded to the respondent. However, the divorce petition was dismissed as infructuous, on 08.07.2015. Since the petitioner did not pay the maintenance amount granted in two proceedings mentioned above, the respondent herein filed E.P.No.151 of 2015 in H.M.O.P.No.36 of 2003 and the same was ordered on 11th October 2017. Being aggrieved, the petitioner has preferred the present revision petition.

3. It is not in dispute that the executing Court has directed the petitioner to pay arrears of maintenance awarded under Section 125 Cr.P.C. and under Section 24 of Hindu Marriage Act. But,

the arrears of maintenance under Section 24 of Hindu Marriage Act are upto 08.07.2015. Thus, counsel for the respondent submits that there is no illegality or perversity in the order passed in E.P.No.151 of 2015.

4. Counsel for the revision petitioner submits that the *pendentelite* maintenance amount awarded under Section 24 of the Hindu Marriage Act is to be adjusted in the maintenance awarded under Section 125 Cr.P.C. The maintenance awarded under two provisions of law can be given but the claimant is entitled to only one maintenance. He submits, there is settled law of the Supreme Court to that effect and the present matter deserves to be allowed.

5. It is not in dispute that the aforesaid plea was taken by the revision petitioner in C.R.P.No.3097 of 2004 and the same was dismissed vide order dated 10th October 2014 by Division Bench of this Court. Being aggrieved, the revision petitioner filed review petition and the same was also dismissed. Thus, order dated 10.10.2014 has attained finality.

6. Since the Division Bench of this Court has already dismissed the plea raised in the present petition in C.R.P.No.3097 of 2004, it is not proper for this Court to take a different view, by

passing the order dated 10th October 2014 passed in C.R.P.No.3097 of 2004.

7. In view of above, finding no merit, the present revision petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

10th April 2018

ajr

