

HONOURABLE JUSTICE G.SRI DEVI

CRLP.No.3312 of 2019

ORDER:

Petitioner seeks quashing of the order, dated 26.10.2018 passed in Crl.M.P.No.245 of 2018 in M.C.No.45 of 2018 on the file of the XV Additional Sessions Judge, Ranga Reddy District, Kukatpally.

Respondents 2, 3 and 4, who are wife and daughters of the petitioner herein, filed M.C.No.45 of 2018 claiming maintenance of Rs.72,000/- per month and also Rs.15,00,000/- for repayment of the debt, from the petitioner herein. Along with the said M.C., respondents 2, 3 and 4 herein filed Crl.M.P.No.245 of 2018 seeking interim maintenance of Rs.50,000/- per month from the petitioner herein. In the said case, the petitioner/husband did not file any counter-affidavit in spite of granting sufficient time. The trial Court, after analyzing the entire evidence available on record, allowed the said petition, by an order dated 26.10.2018, directing the petitioner/husband to pay interim maintenance of Rs.15,000/- per month to the 2nd respondent/wife and Rs.7,500/- per month to each of respondent Nos.3 and 4 from the date of filing of the petition. Questioning the said order, the petitioner/husband filed the present Criminal Petition.

Learned Counsel for the petitioner/husband submitted that since the counsel for the petitioner appearing in the Court below did not intimate about the date of hearing of the case and as such the petitioner could not appear before the trial Court and file counter-affidavit within time. He further submitted that the 2nd respondent/wife who is a well qualified woman is not entitled to remain as an idle and claim maintenance from the petitioner/husband and in support of his contention, he relied upon a decision of Madhya Pradesh High Court reported in *Mamta Jaiswal v. Rajesh Jaiswal*¹. He further submitted that the Court must take into consideration the status of the parties and the capacity of the spouse while granting maintenance and in support of the said contention, he relied upon a decision of the Supreme Court in *Manish Jain v. Akanksha Jain*². He further submitted that the petitioner/husband is willing to pay maintenance to his minor children and that the 2nd respondent/wife cannot claim any monetary relief against the petitioner/husband as she is having sufficient means to maintain herself.

Learned Counsel for respondent Nos.2, 3 and 4 submitted that the trial Court after considering the status of the petitioner/husband, awarded interim maintenance to the wife

¹ 2000 (3) MPLJ 100

² (2017) 15 Supreme Court Cases 801

and children and, therefore, there is no valid ground to interfere with the impugned order of the trial Court.

A perusal of the material available on record would show that the petitioner/husband failed to file counter-affidavit in spite of granting sufficient time by the trial Court, as such the trial Court set him *ex parte* on 26.10.2018. After awarding interim maintenance, the petitioner filed CrI.M.P.No.275 of 2019 before the trial Court seeking to set aside the *ex parte* order dated 26.10.2018 only to avoid the payment of interim maintenance. By an order dated 16.05.2019, the trial Court dismissed the said application. The said order has become final since the petitioner/husband has not challenged the said order. The main ground urged by the learned counsel for the petitioner that his advocate has not informed the date of hearing. But a perusal of the order passed in CrI.M.P.No.275 of 2019 would show that the petitioner/husband was present on 21.09.2018 and since the petitioner did not file his counter-affidavit, the matter was posted for hearing on 11.10.2018, thereafter the case was taken up and disposed of on 26.10.2018.

Having considered the submissions made by the learned Counsel for the parties and having perused the order of the trial Court, this Court is of the view that there is no dispute with regard to the relationship of the petitioner/husband with

respondents 2, 3 and 4 herein. In fact, the trial Court has considered the entire material available on record and the financial capacity of the petitioner/husband and also the cost of living in coming to the conclusion that respondents 2, 3 and 4 herein are entitled to interim maintenance and accordingly granted interim maintenance at the of Rs.15,000/- per month to the 2nd respondent/wife and Rs.7,500/- per month to each of respondent Nos.3 and 4 from the date of filing of the petition, which is fair and reasonable. The trial Court was justified in awarding the said amount.

In the light of the above, this Court is of the view that the trial Court has given sufficient and cogent reasons in awarding the interim maintenance. I do not find any ground to interfere with the impugned order of the trial Court.

The Criminal Petition is accordingly dismissed.

JUSTICE G.SRI DEVI

09-09-2019
Gsn.