

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 4 6 8 9 of 2018

ORDER :

This Criminal Petition is filed by the petitioner/respondent under section 482 of Cr.P.C., seeking to quash the order dated 05/01/2018 passed in Crl.MP.No. 2144 of 2016 in M.C.No. 349 of 2012 by the Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-XXIII Additional Chief Judge-cum-IX-Additional Metropolitan Sessions Judge, Hyderabad.

2. The petitioner is no other than the father of the second respondent herein.

3. She filed Crl.MP.No. 2144 of 2016 in the earlier disposed of order in M.C.No. 349 of 2012 before Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-XXIII Additional Chief Judge-cum-IX-Additional Metropolitan Sessions Judge, Hyderabad, under section 127 Cr.P.C., to enhance the existing maintenance of Rs.3000/- per month to Rs.7,500/- per month saying her father, who is the petitioner herein and respondent before the lower court in that application is doing business including screen printing and real estate and getting more than Rs.70,000/- per month and the costs of living is increased from the economic index about 300 times and pursuant to the earlier application for enhancement of maintenance by order

dated 12-06-2013 from that day it was fixed at Rs.3,000/- per month which is very meagre. The petitioner herein, who was respondent before the trial court even served but failed to attend much less to oppose the petition and the large Judge, Family Court based on the said petition in Crl.MP.No. 2144 of 2016 [daughter of him] as PW-1 in-chief with no cross-examination and from her say with re-petition of those facts of her enhancement application saying those facts not in challenge including his owning immovable properties with shops bearing door Nos. 22-2-801 to 22-02-810 and thereby just cross-claimed to enhance from Rs.3,000/- to Rs.7,500/- per month. It is said order dated 05/1/2018 impugned herein. The second respondent notice sent to her address furnished in the lower court returned as “un-claimed” for seven deposit is sufficient and even notice served to her counsel in the lower court and even shows delivery, there is no representation. Thereby service from the above held sufficient and taken as heard second respondent and heard the counsel for the petitioner and Public Prosecutor representing the first respondent/State.

4. Though no specific ground taken impugning that order as to court should not have been passed that order from the very wording of Section 125 [1] (c) Cr.P.C. In the course of hearing, the counsel for the petitioner drawn attention of the Court to the same, for more clarity Section 125 [1] in which clause ‘c’ as part, reads as follows :

125. Order for maintenance of wives, children and parents :-

(1) If any person having sufficient means neglects or refuses to maintain ----

[c] his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

From the very wording of Section 125 [1] [c] Cr.P.C., a major un-married daughter legitimate or illegitimate is no doubt entitled to maintenance provided by reason of his/her physical or mental abnormality or from any injury unable to maintain itself.

5. It is not the case herein of the second respondent herein, who was the petitioner in Crl.MP.No. 2144 of 2016 wherein in her application and as PW-1 she categorically deposed that she completed B.tech. Once the father caused her educated in completion of her B.tech she is able to maintain by searching an avocation and not a case of she got any physical or mental abnormality or any injury and therefrom unable to maintain even major being un-married to grant any maintenance much-less enhancement, thereby this aspect not considered as rightly pointed out by the learned Judge, Family Court, Hyderabad in enhancing the maintenance. No doubt, it is not the case of the petitioner herein of, the respondent-daughter is not entitled to any maintenance or any application filed to stop the payment of even Rs.3,0000/-, by invoking section 127 Cr.P.C., from the changed circumstances with reference to the provision to interfere but Rs.3,0-00/- already existing and paying undisputedly.

6. Having regard to the above, the Criminal Petition is allowed and the enhancement order of Rs.3,000/- per month to Rs.7,500/- is set aside, as the learned Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-XXIII Additional Chief Judge-cum-IX-Additional Metropolitan Sessions Judge, Hyderabad under the statutory provision has no right to award any maintenance much less by enhancement to the original one.

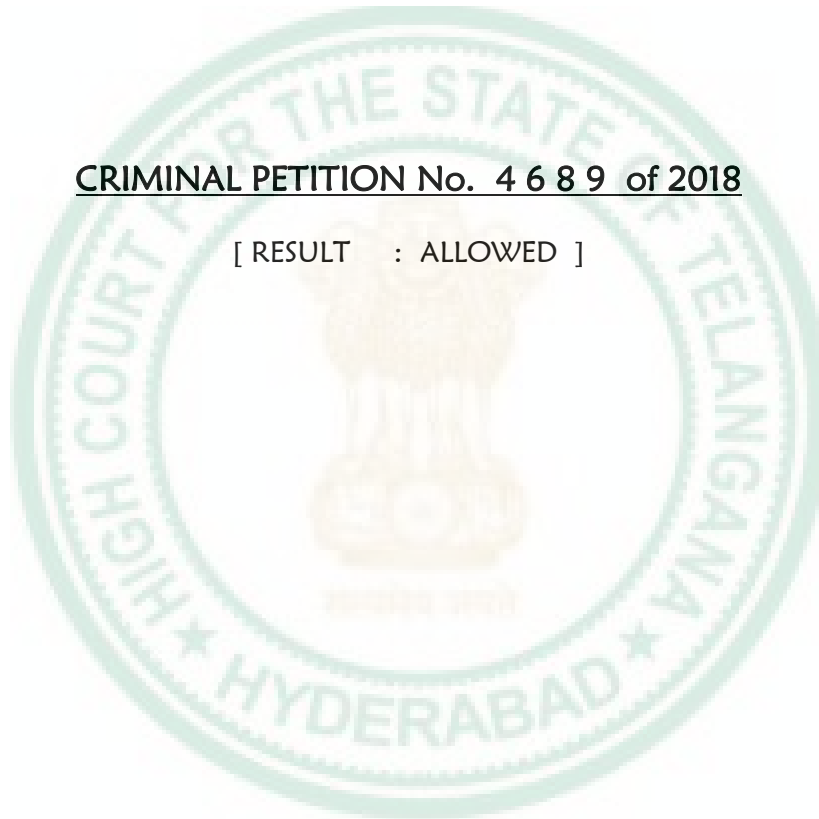
7. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO, J.

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[RESULT : ALLOWED]



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