

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

CRIMINAL PETITION No.1172 of 2015

ORDER:

Heard Sri Bankatlal Mandhani, learned counsel appearing for the petitioner, and Sri B. Narasimha Sarma, learned counsel appearing for the respondents. Perused the record.

2. This criminal petition is filed by the petitioner (husband of respondent No.1, and father of respondent No.2) against the order dated 09.12.2014 passed by Additional District and Sessions Judge, Vikarabad, in CrI.R.P.No.6 of 2014.

3. Brief facts of the case are that the respondents filed a Maintenance Case in M.C.No.1 of 2011 on the file of Judicial Magistrate of First Class, Tandur, (for short, 'the trial Court') against the petitioner, praying to grant Rs.15,000/- per month to each of the respondents. The trial Court passed an ex parte order on 31.07.2013 in the maintenance case directing the petitioner to pay Rs.4,000/- per month to each of the respondents. Seeking to set aside the ex parte order, the petitioner moved a petition in CrI.M.P.No.780/2013. The trial Court allowed the set aside petition, subject to the condition of the petitioner depositing half of the petition amount awarded to the respondents, within a period of 15 days. Aggrieved by the conditional order passed by the trial Court, the petitioner approached the Court of Additional District and Sessions Judge, Vikarabad (for short, 'the District Court) by filing a revision petition viz., CrI.R.P.No.6 of 2014. The learned District Court dismissed the revision petition thereby affirmed the order dated 13.01.2014 passed by the trial Court in CrI.M.P.No.780/13 in M.C.No.1 of 2011 however gave the petitioner ten days time to make the deposit as ordered by the trial Court. Aggrieved by the order passed by the District Court, the petitioner filed this criminal petition invoking Section 482 Cr.P.C.

4. It is not necessary to deal with the petition on merits, particularly, in the light of the order passed by this Court while disposing of the CrI.R.C.No.83 of 2015 on 04.02.2020 filed by the petitioner in connection with the Domestic Violence Case (DVC No.3 of 2011) filed by the respondent (wife) against the petitioner.

5. Learned counsel for the petitioner (husband) submits that earlier the petitioner was employed, however, on account of the disturbances caused on matrimonial front, he lost his employment and is no more gainfully employed, and virtually living on his father; and therefore the conditional order passed by the Courts below in the maintenance case may be set aside, and the maintenance case may be restored to file.

6. Learned counsel for the respondent (wife) submits that there is no infirmity in the order passed by the Courts below and therefore the criminal petition is liable to be dismissed.

7. This Court, while ordering notice in the criminal petition on 02.03.2015, granted interim stay on the condition of the petitioner depositing Rs.1,50,000/- within one month from the date of the order, and further continuing to deposit Rs.3,000/- per month before 10th of every succeeding month, until further orders.

8. The amount of Rs.1,00,000/- which the petitioner deposited earlier in the DVC Case, was directed to be adjusted against the interim order made on 02.03.2015. The petitioner had also filed proof of receipt dated 01.04.2015 evidencing further payment of Rs.50,000/- in favour of respondents 1 and 2. He also placed on record the challans evidencing payment of maintenance at the rate of Rs.3,000/- per month as directed by this Court in the order dated 02.03.2015.

9. Having considered respective submissions, though it is contended that the petitioner is not gainfully employed, considering that the petitioner has duty to maintain his wife and child, and as the petitioner has filed a petition seeking to set aside the ex parte order passed in the maintenance case, and further considering that the order made in CrI.R.P.No.6 of 2014 is only a conditional order which came to be challenged before this Court in this criminal petition, in the interest of justice, the following order is made:

(a) The maintenance case M.C.No.1 of 2011 shall be restored to file, subject to the condition of the petitioner paying a sum of Rs.6000/- per month (at the rate of Rs.3,000/- per month each to respondents 1 and 2), with effect from January, 2020, payable on 10th of every succeeding month, towards maintenance of respondents 1 and 2, until further orders.

(b) The amount being paid in the maintenance case shall be taken into account while deciding the M.C.No.1/2011 and DVC No.3/2011.

10. The criminal petition is accordingly disposed of. Miscellaneous petitions, if any pending, shall stand closed.

05th February, 2020
KSM

CHALLA KODANDA RAM, J

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM



CRIMINAL PETITION No.1172 of 2015

05th February, 2020

KSM