

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY ,THE THIRD DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO: 5898 OF 2022

AND

CRIMINAL PETITION NO:5911 OF 2022

CRIMINAL PETITION NO: 5898 OF 2022

Between:

Sep Rapaka Mohana Rao, S/o Ramaiah, Aged- 36 Years, Occ- Rtd. Time Scale Naik, Army R/o Gollapalem Village, Yerramukkam (Post), Mandasa (M), Srikakulam District, A.P. -532262

...PETITIONER/RESPONDENT

AND

1. The State of Telangana, The Public Prosecutor, High Court for the State of Telangana at Hyderabad.

...RESPONDENT No.1

2. Smt. Rapaka Padma, W/o Mohana Rao, Aged- 36 Years, Occ- Employee,
3. Master Rapaka Divyansh, Aged- 8 Years Occ- Student
4. Baby R. Rakshitha, Aged- 5 Years Occ- Student (Respondents Nos. 3 and 4 are being minors rep. by their mother) All are R/o 1-16-148/2, Madhavai Nagar Colony, Alwal, Secunderabad

...RESPONDENTS No. 2 to 4/PETITIONERS No.1 to 3

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the interim maintenance passed in common order vide Crl. M.P. Nos. 3 of 2020 in M.C. No. 58 of 2019 dated 10/01/2022 on the file of Hon'ble XVI Addl. District and Sessions Judge, Ranga Reddy District at Malkajgiri.

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the High Court may be pleased to grant stay of all further proceedings in Crl. M.P. No. 3 of 2020 in M.C. No. 58 of 2019 by the learned Hon'ble XVI Addl. District and Sessions Judge, Ranga Reddy District at Malkajgiri dated 10.01.2022.

CRIMINAL PETITION NO: 5911 OF 2022

Between:

Sep Rapaka Mohana Rao, S/o Ramaiah, Aged. 36 Years, Occ. Rtd. Time Scale Naik, Army R/o Gollapalem Village, Yerramukkam (Post), Mandasa (M), Srikakulam District, A.P. -532262.

...PETITIONERRESPONDENT

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1. The State of Telangana, The Public Prosecutor High Court for the State of Telangana At Hyderabad.

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(Respondents Nos. 3 and 4 are being minors rep. by their mother) All are R/o 1-16-148/2, Madhaval Nagar Colony, Alwal, Secunderabad.

...RESPONDENTS No.2 to 4/PETITIONERS NO.1 to 3

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the interim maintenance passed in common order vide CrI. M.P. Nos. 13 of 2020 in M.C. No. 58 of 2019 dated 10.01.2022 on the file of Hon'ble XVI Addl. District and Sessions Judge, Ranga Reddy District at Malkajgiri.

I.A. NO: 2 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay all further proceedings in CrI. M.P. No. 13 of 2020 in M.C. No. 58 of 2019 by the learned Hon'ble XV1Addl. District and Sessions Judge, Ranga Reddy District at Malkajgiri dated 10.01.2022.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri V.S.R.M.V. PRASAD SANAKA, Advocate for the Petitioner in the Criminal Petitions, and Sri D.Arun Kumar, the Additional Public Prosecutor (TG) on behalf of the Respondent No.1 in the both Criminal Petitions and of Sri M.Ratan Singh, Advocate for the Respondent Nos.2 to 4 in both CrIps.

The Court made the following: COMMON ORDER

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION Nos.5898 and 5911 of 2022

COMMON ORDER:

Both the Criminal Petitions have been filed aggrieved by the common order, dated 10.01.2022 passed in CrI.M.P.Nos.3 and 13 of 2020 in M.C.No.58 of 2019 on the file of XVI Additional District & Sessions Judge, Ranga Reddy District at Malkajgiri. In CrI.M.P.No.13 of 2020, the trial Court granted the interim maintenance of Rs.8,000/- per month to respondent Nos.2 to 4 directed the respondents to pay the balance amount of Rs.18,352/- to the petitioners. The CrI.M.P.No.3 of 2020, the petition filed for attachment of retirement benefits of the petitioner till the disposal of the M.C was allowed.

2. Since the issue involved in both the criminal petitions is one and the same, they are being disposed of by this common order.

3. Brief facts of the case are that respondent Nos.2 to 4 have filed CrI.M.P.No.13 of 2020 seeking interim maintenance of Rs.15,000/- per month to respondent No.2 and Rs.10,000/- per month each to respondent Nos.3 and 4, pending disposal

of the main MC and also filed Crl.M.P.No.3 of 2020 seeking to order attachment of retirement benefits of the petitioner and the same were allowed by common order, dated 10.01.2022 awarding interim maintenance of Rs.8,000/- per month each to respondent Nos.2 to 4 and also ordered attachment of retirement benefits of the petitioner till the disposal of the main M.C. Aggrieved by the same, the present Criminal Petitions have been filed.

4. Heard Sri K.Ramachandra, learned counsel for the petitioner and Sri D. Arun Kumar, learned Additional Public Prosecutor appearing on behalf of the respondent No.1-State and Sri M. Ratan Singh, learned counsel for the respondent Nos.2 to 4.

5. Learned counsel for the petitioner submitted that the trial Court has not observed the fact that the petitioner is retired from the service. He further submitted that the petitioner is getting basic salary of Rs.42,050/- per month and he is getting half of the pension, which is not sufficient to pay interim maintenance of Rs.8,000/- per month to the each respondent i.e. total Rs.24,000/- per month as per the

impugned order dated 10.01.2022. Therefore, he prayed the Court to set aside the impugned order.

6. On the other hand, learned counsel appearing on behalf of the respondent Nos.2 to 4 submitted that the petitioner has not complied with the order, dated 10.01.2022. It is further submitted that the trial Court has also observed that no prejudice would be caused to the case of petitioner herein if the attachment of retirement benefits is ordered. He also submitted that respondent Nos.2 to 4 are not having any source of income, therefore, there is no illegality in the orders passed by the trial Court. Hence, he prayed this Court to dismiss the Criminal Petitions.

7. The record shows that the petitioner is getting pension of Rs.42,050/-. Therefore, this Court is of the considered opinion that there is no illegality in the order of the trial Court in awarding interim maintenance of Rs.8,000/- per month each to respondent Nos.2 to 4 and the trial Court has to decide the main M.C. after completion of the trial. As such, the Criminal Petition No.5911 of 2022 is liable to be dismissed.

8. Insofar as Criminal Petition No.5898 of 2022 is concerned, this Criminal Petition is filed only to avoid his

liability to pay interim maintenance amount. The petitioner has applied for discharge from his services of Army and that the respondents-wife and children of the petitioner are entitled for the retirement benefits of the petitioner. Learned counsel for the petitioner denied the said contention stating that till date he has not applied for discharge from his service. The trial Court without considering the same, had observed that no prejudice would be caused to the case of the petitioner herein, if the retirement benefits of the petitioner are attached till the disposal of the main case.

9. Learned counsel for the respondent Nos.2 to 4 herein contended that if the terminal benefits are released, the respondents will be deprived of any source of income and that the petitioner will escape from his liability.

10. The question to be decided here is whether the attachment of terminal benefits of the petitioner herein is proper. Perusal of record shows that attachment is ordered on the ground that no prejudice will be caused to the petitioner. Whereas the petitioner contention is that if it is not raised he will not get benefits that will be given by the Government and

also alternative employment and also it is difficult to him to pay the maintenance to the respondents.

11. In view of the above submissions made by both learned counsel for the respective parties, it is clear that if the retirement benefits are not released, the respondents cannot get any maintenance amount from the petitioner. Therefore, this Court deems it appropriate to dispose of Crl.P.No.5898 of 2022 directing the trial Court to raise the attachment order subject to the condition of the petitioner furnishing an undertaking to pay the interim maintenance amount regularly to the respondents. Further on condition to deposit the arrears if any.

12. Accordingly, the Criminal Petition No.5911 of 2022 is dismissed and the Criminal Petition No.5898 of 2022 is disposed of.

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

Sd/- A. SRINIVASA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

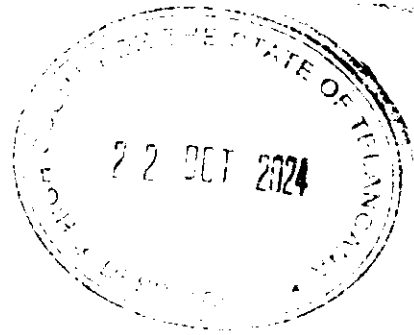
To,

1. The XVI Addl. District and Sessions Judge, Ranga Reddy District at Malkajgiri.
2. One CC to SRI V.S.R.M.V. PRASAD SANAKA, Advocate [OPUC]
3. One CC to SRI M. RATAN SINGH, Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court for the State of Telangana At Hyderabad[OUT]
5. Two CD Copies.

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HIGH COURT

DATED:03/10/2024



COMMON ORDER

CRLP.No.5898 of 2022
AND
CRLP.No. 5911 of 2022

DISPOSING OF THE CRL.P. No. 5898 of 2022
And
DISMISSING THE CRL.P. No. 5911 of 2022

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