

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.1634 of 2012

ORDER

This Criminal Revision Case, under Sections 397 and 401 of Code of Criminal Procedure, 1973, is filed aggrieved by the order and decree, dated 07.06.2012, in M.C.No.12 of 2010 passed by the Judicial Magistrate of First class, Ichapuram.

2. Case of respondent Nos.1 and 2 is that respondent No.1 is wife and respondent No.2 is son of the petitioner. Marriage of the petitioner with respondent No.1 was performed at Edupuram Village in Rama Mandiram Temple as per Hindu caste custom and rites about 20 years ago. Immediately after the marriage, respondent No.1 joined the petitioner and their marriage was consummated. Respondent No.1's mother presented sarisamanulu worth Rs.15,000/-. They lead happy marital life for a period of fifteen years. Due to the wedlock, they were blessed with respondent No.2 and one Santhosh. The petitioner worked in Indian Army and retired from service and living along with respondent Nos.1 and 2 in Edupuram Village. He started illicit intimacy with another woman and started harassing respondent No.1. Petitioner used to beat respondent No.1 frequently demanding additional dowry of Rs.50,000/-. On 27.5.2010, petitioner came to the house in an intoxicated condition and beat respondent No.1 and her children indiscriminately by scolding in foul and filthy language and demanded dowry of Rs.50,000/- and necked her out of the house. Respondent No.1 went to her parents' house and took shelter there. Later, the petitioner came to the parents' house of respondent No.1 and demanded Rs.50,000/- and threatened her with dire consequences. Unable to bear the harassment of the petitioner, respondent No.1 gave police report in Ichapuram Rural Police Station and the same was registered as Crime No.34 of 2010 for the offence

punishable under Section 498-A I.P.C. and the investigation is pending. Respondent No.1 is not having independent source of income and unable to maintain herself and her children. Respondent No.2 is a growing child and requires school fees, books and medical assistance from time to time. The petitioner is hale and healthy. He is having slabbed house and lands in the village. He is getting pension of Rs.8,000/- per month. He is running a tractor and getting a monthly income of Rs.10,000/-. He is getting annual income of Rs.30,000/- by doing agriculture. He is having sufficient means to maintain respondent Nos.1 and 2. Hence, respondent Nos.1 and 2 filed the aforementioned Maintenance Case for monthly maintenance of Rs.4,000/- to respondent No.1 and Rs.3,000/- to respondent No.2.

3. The learned Judge, after recording the evidence of P.Ws.1 to 3 and R.Ws.1 to 4 and after perusing Ex.P-1 and Exs.R-1 to R-10, held that respondent Nos.1 and 2 are entitled to maintenance at Rs.1,000/- per month each. Aggrieved by the same, the present revision case is filed by the petitioner herein.

4. Learned counsel for the petitioner contended that the petitioner, being an Ex-Serviceman, is getting pension of Rs.6,000/- only per month and he is spending an amount of Rs.2,000/- per month towards his medical expenses, as he is a chronic diabetic; that further, insofar as respondent No.2 is concerned, the petitioner is already paying his school fees regularly and hence, the petitioner is not in a position to pay the maintenance to respondent Nos.1 and 2 and therefore, he prays to set aside the impugned order.

5. On the other hand, learned counsel for the respondents submits that the maintenance awarded by the Court below is too small amount and even in these days, that amount is not sufficient. It is also submitted that respondent Nos.1 and 2 have already initiated proceedings before the concerned Sessions Court for enhancement of

maintenance and hence, he prays to dismiss this Criminal Revision Case.

6. The relationship between the parties is not in dispute. The fact remains that the petitioner, who is an Ex-serviceman, is a pensioner. It is also the case that the petitioner filed Original Petition for divorce and the same is pending. A perusal of the impugned order and the evidence clearly shows that respondent Nos.1 and 2 have made out a case and shown just and reasonable cause to live separately from the petitioner. Taking into consideration the income of the petitioner and other facts and circumstances of the case, the Court below awarded Rs.1,000/- per month each to respondent Nos.1 and 2. By no stretch of imagination, it can be said that the said amount is excessive, exorbitant or a bounty and the impugned order does not call for interference of this Court. Therefore, the Criminal Revision Case is devoid of merit and the same is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

JUSTICE M.S.K.JAISWAL

Date:19.8.2015
AMD

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