

HON'BLE SMT JUSTICE ANIS

CRIMINAL REVISION CASE No.1471 of 2007

ORDER:

This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the order dated 21.09.2007, passed by the Judicial Magistrate of First Class, Srikakulam, in CrI.M.P.No.1301 of 2007 in M.C.No.57 of 2000.

2. The brief facts of the case are that the respondents, who are the wife, son and daughter of the revision petitioner, filed M.C.No.57 of 2000 against the revision petitioner before the Judicial Magistrate of First Class, Srikakulam, for maintenance and the learned Magistrate directed the revision petitioner to pay Rs.500/- p.m to the respondents each. Thereafter, they along with one Tejaswari, who is the other daughter of the revision petitioner, again filed O.S.No.96 of 2001 against the revision petitioner before the Court of the Additional Senior Civil Judge, Srikakulam. The said suit was decreed in favour of respondent Nos.2, 3 and Tejaswari, but it was dismissed against respondent No.1. In the said Original Suit, the learned Additional Senior Civil Judge, Srikakulam, directed the revision petitioner to pay maintenance of Rs.500/- p.m for a period of one year to respondent No.2 and till the marriage of respondent No.3 and Tejaswari each. In pursuance of the said decree, respondent Nos.2, 3 and Tejaswari filed E.P.No.32 of 2006 against the revision petitioner and got his salary attached. Therefore, in view of pending of the proceedings in E.P.No.32 of 2006, the revision petitioner in CrI.M.P.No.1301 of 2007 and prayed the Court to set aside the order dated 26.04.2001 in M.C.No.57 of 2000. But, the learned Judicial Magistrate of First Class, Srikakulam, after hearing both sides and after perusing the record, dismissed the said petition. Being aggrieved by the said order, the revision petitioner filed this Criminal Revision Case.

3. The learned counsel for the revision petitioner stated that respondent No.3 already became major, working as a teacher and getting a monthly salary of Rs.15,000/-; that her marriage was performed with one Arasavelli Mohan Rao on 31.03.2010; and that in view of attaining majority and working as a teacher,

she is not entitled for maintenance from the revision petitioner. The counsel for the revision petitioner filed the certified copy of the order dated 05.06.2012 in CrI.M.P.No.870 of 2011 in M.C.No.57 of 2000, wherein the learned Magistrate allowed the petition against respondent No.3. The learned counsel for the revision petitioner also filed a copy of the order passed in CrI.R.C.No.49 of 2006, wherein respondent No.1 filed the said revision before the I Additional Sessions Judge, Srikakulam, to set aside the order dated 13.04.2006 passed in CrI.M.P.No.1022 of 2006 in M.C.No.57 of 2000. The learned I Additional Sessions Judge, Srikakulam on 12.11.2009, dismissed the revision filed by respondent No.1 as she was provided with permanent alimony by giving a house with several portions, out of which she was enjoying the rents along with her children. The learned counsel for the revision petitioner also argued that respondent No.2 became major and not entitled for any maintenance and filed CrI.M.P.No.1189 of 2002 in CrI.M.P.No.111 of 2002 in M.C.No.57 of 2000 before the Judicial Magistrate of First Class, Srikakulam; that on 14.10.2005, the learned Magistrate allowed the petition and held that respondent No.2 is not entitled to any maintenance after 23.08.2001 and also held that respondent No.2 was declared as major.

4. On the other hand, none appeared on behalf of respondent Nos.1 to 3.

5. In view of the order dated 05.06.2012 in CrI.M.P.No.870 of 2011 in M.C.No.57 of 2000, order dated 13.04.2006 passed in CrI.M.P.No.1022 of 2006 in M.C.No.57 of 2000 and the order dated 14.10.2005 passed in CrI.M.P.No.1189 of 2002 in CrI.M.P.No.111 of 2002 in M.C.No.57 of 2000, the respondents are not entitled for any maintenance, in particular, when respondent No.2 became major, whereas respondent No.1 got permanent alimony in O.S.No.96 of 2001 and further, respondent No.3 is married and she is working as a teacher. Therefore, In view of the facts and circumstances of the case, I am of the view that the order dated 21.09.2007 passed by the Judicial Magistrate of First Class, Srikakulam, in CrI.M.P.No.1301 of 2007 in M.C.No.57 of 2000 is liable to be set aside.

6. Accordingly, the Criminal Revision Case is allowed setting aside the order dated 21.09.2007, passed by the Judicial Magistrate of First Class, Srikakulam, in CrI.M.P.No.1301 of 2007 in M.C.No.57 of 2000 and thereby canceling the order dated 26.04.2001 passed in M.C.No.57 of 2000.

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

ANIS, J

Date: 06.04.2015

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