

HON'BLE SMT JUSTICE ANIS
CRIMINAL PETITION No.2495 OF 2012

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ORDER:
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This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the orders dated 13.12.2011 passed in Criminal Revision Petition No.65 of 2011 on the file of III Additional Sessions Judge, Kurnool at Nandyal.

2. The petitioner herein is the respondent and the first respondent herein is the petitioner before the trial Court.

3. The case of the petitioner is that respondent filed a petition under Section 127 Cr.P.C. seeking enhancement of the maintenance from Rs.300/- to Rs.20,000/- per month in view of raising of pay of the petitioner herein. Learned counsel for the petitioner argued that the petitioner is only getting gross salary of Rs.18,899/- and net salary of Rs.1,376/- and as such, he is not in a position to pay the enhanced maintenance of Rs.6,000/-per month and both the Courts failed to see the capacity of the petitioner to pay the maintenance amount. It is also argued by the petitioner's counsel that the petitioner underwent heart surgery and he has to maintain himself and for his medicines and as such prayed the Court to reduce the maintenance from Rs.6,000/- to Rs.5,000/-.

4. On the other hand, learned counsel for the respondent argued that the petitioner is working as Assistant Engineer in APSEB, Adoni and as per the salary particulars produced for the month of July 2008 he was drawing gross salary of Rs.28,985/-, whereas, the salary certificate produced for the month of March

2011, shows that the petitioner is drawing Rs.18,899/- and both the Courts categorically gave a finding that enhancement of maintenance from Rs.300/- to Rs.6,000/- is reasonable due to present day cost of living and finally prayed the Court to dismiss the revision petition.

5. Now, the point for determination is --

Whether the petitioner is entitled for setting aside the order of CrI.R.P.No.65 of 2011 dated 13.12.2011 as prayed for?

6. **POINT:**

There is no dispute that the petitioner and the first respondent are husband and wife and first respondent filed maintenance case under Section 125 Cr.P.C. in M.C.No.1 of 1994 on the file of Judicial Magistrate of First Class, Nandyal, and the said petition was allowed awarding maintenance of Rs.300/- per month on 09.01.1995. Thereafter, the first respondent filed CrI.M.P.No.5362 of 2010 for enhancement of maintenance from Rs.300/- to Rs.20,000/- as the petitioner was drawing more salary. After hearing both sides and after considering the evidence on record, the trial Court enhanced the maintenance from Rs.300/- to Rs.6000/- and the same was confirmed in CrI.R.P.No.65 of 2011 by the III Additional Sessions Judge, Kurnool at Nandyal.

7. The main grievance of the petitioner is that he is getting only Rs.1,376/- after deductions from his gross salary of Rs.18,899/- and the said amount is not sufficient to maintain himself and to maintain the first respondent. Therefore to reduce the enhanced maintenance from Rs.6,000/- to Rs.5,000/-. The trial Court while deciding CrI.M.P.No.5362 of 2010 observed that in the year 2008, the petitioner was drawing gross salary of Rs.28,985/-, whereas in the month of March 2011 he shown his gross salary as Rs.18,899/-

and net salary as Rs.1,376/-. After considering the admission of the petitioner that he was getting gross salary of Rs.18,899/-, both the Courts observed that Rs.6000/- is sufficient towards maintenance to the first respondent in view of the present day cost of living. Though the petitioner stated that he is getting only net salary of Rs.1,376/-, which cannot be believed and with that amount he is unable to maintain himself also. Therefore, considering the gross salary of Rs.18,899/-, the trial Court as well as the revision Court enhanced the maintenance from Rs.300/- to Rs.6,000/-, which is reasonable amount for maintenance of a woman aged about 45 years. Therefore, the findings of both the Courts below need no interference and the criminal petition is liable to be dismissed.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

ANIS, J

Date:16.02.2015

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