

THE HON'BLE SMT JUSTICE ANIS

CRL.R.C.NO.942 OF 2008

ORDER:

Heard learned counsel for the petitioner-husband and learned counsel for respondent No.1-wife.

2. The petitioner (husband) filed this revision challenging the order, dated 16.05.2008 in M.C.No.228 of 2006 on the file of the Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court-cum-XXIII Additional Chief Judge, Hyderabad.

3. The petitioner herein is the respondent-husband and the respondent No.1 herein is the petitioner-wife in the trial Court.

4. The brief facts are that:

The marriage between the respondent-wife and the petitioner-husband was performed on 05.06.2005 at Hyderabad. At the time of marriage, the parents of the respondent-wife gave dowry of Rs.2,00,000/- and other articles to the petitioner-husband. The respondent-wife joined the company of the petitioner-husband and they started living together. After one month of their marriage, the petitioner-husband left for Saudi Arabia leaving the respondent-wife with his parents. The parents of the petitioner-husband harassed the respondent-wife for additional dowry. The petitioner-husband also threatened the respondent-wife that he would contract a second marriage, if she failed to bring additional dowry. The petitioner-husband failed to provide basic necessities to the respondent-wife. On 12.04.2006, the petitioner-husband and his parents driven out the respondent-wife from the house and warned her to come back with additional dowry of Rs.25,000/-. Therefore, the respondent-wife lodged a report with the police against the petitioner-wife and the same was registered as Crime No.91 of 2006 under Section 498-A IPC. The petitioner-husband married one Ayesha Begum on 20.08.2006 for the

purpose of dowry. The petitioner-husband is earning Rs.50,000/- per month by doing real estate business, running kerosene depot and also getting rents from the house properties. The respondent-wife is residing with her parents and that she has no means to maintain herself. Therefore, prayed to grant monthly maintenance of Rs.25,000/-.

5. On the other hand, the petitioner-husband filed counter denying the averments made in the petition and also denied that he was earning Rs.50,000/- per month by doing real estate business. The petitioner-husband contended that he had married the respondent-wife without any dowry and that only customary articles were given at the time of their marriage and that he or his parents never demanded for any additional dowry or driven out the respondent-wife from the house. The respondent-wife herself voluntarily left his company and living separately. The petitioner-husband contended that he has resigned to his job and returned to India on 10.02.2006 and that he has no means to pay the maintenance. It is also stated that the parents of the respondent-wife are residing in USA and that she is having sufficient means to maintain herself. Further, the petitioner-husband stated that he does not have any job and no income and that he is dependant on the income of his parents. Therefore, the petitioner-husband seeks to dismiss the maintenance case.

6. During the course of trial, the wife herself examined as PW.1 and marked Exs.P.1 to P.3. On behalf of the husband, he himself examined as RW.1 and also got examined RW.2 and marked Ex.R.1-legal notice.

7. Learned counsel for the petitioner-husband herein submitted that the maintenance granted by the trial Court is very high and he has no job and has no financial assistance from anybody and not doing any business. Therefore, prayed the Court to reduce the maintenance granted by the trial Court.

8. On the other hand, learned counsel for the respondent-wife submitted that the trial Court after considering oral and documentary

evidence granted monthly maintenance of Rs.5,000/-, which is just and reasonable for the necessities of the respondent-wife and that prayed to dismiss the criminal revision case.

9. The point that arises for consideration is:

Whether the petitioner-husband is entitled to set aside the order dated 16.05.2008 passed by the trial Court in M.C.No.228 of 2006 or not?

POINT:

10. There is no dispute that the petitioner-husband married the respondent-wife on 05.06.2005 at Hyderabad as per the Muslim Marriage Rites and thereafter, the petitioner-husband left Saudi Arabia for employment leaving the respondent-wife with his parents. According to the respondent-wife, during the absence of the petitioner-husband his parents harassed her and that the petitioner-husband, after coming back to India also started harassing her without providing basic necessities, as such she filed criminal case. According to the petitioner-husband, he is not doing any business and not earning Rs.50,000/- per month and that he is dependant on the income of his parents for his maintenance.

11. Admittedly, the petitioner-wife is not having any means to maintain herself and that the petitioner-husband was returned from Saudi Arabia and doing lucrative business in the city and also contracted second marriage with another woman. After considering oral and documentary evidence of both parties, the Trial Court rightly granted Rs.5,000/- as monthly maintenance on the ground that the petitioner-husband was doing business and deliberately suppressed the said fact. Therefore, the order under challenge does not suffer from any illegality or infirmity so as to call for interference by this Court. Hence, the revision is devoid of merits and is liable to be dismissed.

12. Accordingly, the Criminal Revision Case is dismissed.

13. The miscellaneous petitions, if any, filed in this revision case shall

also stand dismissed.

ANIS, J

19.03.2015
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DATE: 19.03.2015

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