

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.330 OF 2008

ORDER:

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This Criminal Revision Case under Sections 397 (1) and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the judgment dated 22.08.2007, passed by the Family Court–cum–IV Additional District & Sessions Court at Vijayawada, in M.C.No.110 of 2004, whereunder and whereby the learned Magistrate allowed the M.C in part and directed the petitioner herein to pay a sum of Rs.1,000/- per month to the first respondent herein towards maintenance.

2. The petitioner herein is the respondent and the first respondent herein is the petitioner in M.C.No.110 of 2004 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the M.C. before the trial Court.

3. The case of the petitioner is that on 01.03.2002, the respondent married her as per Hindu rights and customs. At the time of marriage, her parents gave an amount of Rs.1,00,000/- as dowry to the respondent. Soon after the marriage, she joined the company of her husband and led marital life for about two months. Thereafter, the respondent addicted to vices, used to come to the house in late hours in the nighttime in drunken state, abuse her in filthy language and used to beat her indiscriminately to get additional dowry. The petitioner also contended that the parents of the respondent also instigated her husband to harass her both physically and mentally and also not provided sufficient food to her. There were mediations taken place. But the said mediations proved futile. On 15.01.2003, the respondent and his parents necked out her from the house by demanding additional dowry of Rs.1,00,000/-. Due to continuous harassment of the respondent, the petitioner gave a complaint to the police and the

same was registered as Crime No.29 of 2003 under Section 498 I.P.C. The petitioner stated that the respondent is doing finance business and earning Rs.5,000/- per month and that she does not have any source of income and she has no capacity to maintain herself. Therefore, prayed the Court to grant Rs.1,000/- per month towards maintenance.

4. The respondent filed counter denying the averments in the petition and specifically stating that he never harassed the petitioner at any time and that the petitioner is having source of income to maintain herself, as she is working in Priya Pickles Factory at Poranki and earning Rs.100/- per day. The respondent denied that he is earning Rs.5,000/- per month and prayed the Court to dismiss the petition.

5. On behalf of the petitioner, P.Ws.1 and 2 were examined and no documentary evidence was adduced. On behalf of the respondent, R.W.1 was examined and no documentary evidence was adduced.

6. After considering the entire evidence, the trial Court granted Rs.1,000/- per month to the petitioner towards maintenance.

7. Aggrieved by the order of the trial Court, the present revision is preferred by the respondent.

8. Learned counsel for the petitioner herein/respondent argued that there is no dispute that the marriage of the petitioner and the respondent was taken place on 01.03.2002 and for sometime, they lived happily. Thereafter, due to the intervention of the respondent's mother and aunt, the respondent left the company of the petitioner herein and filed a criminal case, which was numbered as C.C.No.125 of 2003 on the file of II Additional Chief Metropolitan Magistrate-cum-Mahila Magistrate, Vijayawada, and the same was ended in acquittal on 28.09.2007. It is also argued by the learned counsel for the revision petitioner that the Court below failed to see Section 125(4) Cr.P.C which clarifies that if any wife is living separately without any sufficient

reasons, she is disentitled for maintenance. It is argued that the respondent herein is working in Priya Pickles and earning Rs.100/- per month and she had self-sufficient to maintain herself and without considering the evidence of the revision petitioner about his capacity to maintain, the maintenance of Rs.1,000/- per month was granted and therefore, prayed this Court to set aside the impugned order.

9. On the other hand, learned counsel for the respondent herein/petitioner argued that after considering the oral and documentary evidence, the trial Court granted Rs.1000/- per month as maintenance and the said amount is just and reasonable and that the petitioner herein failed to prove that his wife was working in Priya Pickles and earning Rs.100/- per day and the finding of the trial Court needs no interference and prayed the Court to dismiss the petition.

10. Now, the point for consideration is --

Whether the revision petitioner herein is entitled to set aside the order passed in M.C.No.110 of 2004 dated 22.08.2007, as prayed for or not?

11. **P O I N T**: A perusal of the oral and documentary evidence shows that there is no dispute that the marriage between the petitioner and the respondent was taken place on 01.03.2002 as per Hindu rights and customs and that the petitioner and the respondent are close relatives. A perusal of the evidence of P.W.1 shows that at the time of her marriage, her parents gave Rs.1,00,000/- as dowry; that she lived happily for sometime and thereafter, quarrels were started; that the parents of the respondent necked out her from the house on 15.01.2003 and from such period, she is residing with her parents and that she does not have any source of income to maintain herself. Though in the cross examination, it was suggested that she was working in Priya Pickles and earning Rs.100/- per day, the petitioner denied the said fact and clearly stated that due to harassment of the respondent, she left his company and living with her parents. Though

the respondent in his evidence alleged that the petitioner is self-sufficient and earning from doing work in Priya Pickles, the same was not proved by cogent evidence. Therefore, the question of the petitioner living separately from the respondent without any reason is not proved. The trial Court after considering the evidence on record and taking into the financial status of the respondent, directed the respondent to pay Rs.1000/- per month as maintenance to the petitioner and the said amount is just and reasonable.

12. Hence, the order of the trial Court in M.C.No.110 of 2004 dated 22.08.2007 needs no interference and the Criminal Revision Case is dismissed.

13. The miscellaneous petitions, if any, pending in the Criminal
Petition shall stand closed.

ANIS, J

Date: 25.02.2015

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HON'BLE SMT JUSTICE ANIS

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