

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

Criminal Revision Case No. 631 of 2013

Order:

This Criminal Revision Case is directed against the orders, dated 13.02.2013, passed in MC No.258 of 2008 by the learned Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court-cum-XXIII Additional Chief Judge, Hyderabad, whereby and whereunder the learned Judge has awarded maintenance of Rs.2,000/- per month to each of the respondents 1 to 3 herein, who are the wife and tender age children of the petitioner herein.

2. The contention of the learned counsel for the revision petitioner is that the Court below erred in awarding maintenance of Rs.2,000/- per month to each of the respondents 1 to 3 by ignoring the fact that they are not entitled to claim any maintenance. His next contention is that it is the first respondent-wife, who had deserted the petitioner-husband and while the petitioner-husband was working in Kuwait, the first respondent-wife has not heeded to his advice to stay with his parents and, on the other hand, at the instance of her parents she left the company of the petitioner and living with her parents and has been filing several false cases against the petitioner. His further contention is that in view of pendency of cases, the petitioner-husband has lost his job and due to the said conduct of the first respondent-wife, the petitioner has pronounced divorce to her on 17.09.2009. It is also his contention that subsequent to pronouncement of divorce, the first respondent was re-married and by suppressing the said fact she claimed maintenance.

3. On the other hand, learned counsel for the respondents 1 to 3

submits that absolutely there is no material to show that it is the first respondent-wife who has deserted the petitioner-husband and that the allegation of re-marriage is without any substance and basis. He further submitted that the Court below, on consideration of the entire oral and documentary evidence, has awarded a very reasonable amount of Rs.2,000/- per month to each of the respondents 1 to 3 and, therefore, there are no grounds to interfere with the same and he prayed to dismiss the revision case.

4. It is not in dispute that the marriage between the petitioner and the first respondent was performed on 29.09.2005 and during the wedlock the respondents 2 and 3 herein were born, who are aged about two years and three months respectively by the date of filing the maintenance case. It is also not in dispute that the respondents 1 to 3 are living separately from the petitioner. It is also not in dispute that subsequently the petitioner-husband pronounced divorce to the first respondent-wife on 17.09.2009. Before the Court below, in support of her case, the first respondent herein was examined as PW.1 and Exs.P1 to P4 were marked. On behalf of the petitioner herein, he himself was examined as RW.1 and no documents were filed on his behalf. Therefore, there was oath against oath insofar as counter claim is concerned. The main allegation against the first respondent is that, subsequent to pronouncement of divorce, she was re-married, but, *absolutely*, no oral or documentary evidence is produced in support of the said allegation. The learned Judge, on proper appreciation of the entire material on record, has held that the first respondent-wife is justified in living separately. In regard to quantum, the learned Judge, having observed that the petitioner-husband has been living in Kuwait and gainfully employed, has awarded maintenance of Rs.2,000/- per month to each of the respondents 1 to 3, which appears to be very reasonable and in view of the present day cost of living the same cannot be said to be very excessive and

exorbitant, warranting interference of this Court. The revision case is devoid of merits and the same is liable to be dismissed.

5. Accordingly, the Criminal Revision Case is dismissed.

6. As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 26.10.2015

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