

THE HON'BLE SMT. JUSTICE ANIS
CRIMINAL REVISION CASE No.1624 OF 2007

ORDER:

This Criminal Revision, under Sections 397 and 401 of the Criminal Procedure Code, 1973 (for short, 'Cr.P.C. '), is filed against the Order dated 26.09.2007, passed by the Judge, Family Court-cum-
V Additional District and Sessions Judge, Tirupathi, in M.C. No.10 of 2006, wherein the learned Judge granted maintenance of Rs.1,500/- per month to the petitioner/ respondent herein.

The revision petitioner herein is the respondent and respondent No.1 herein is the petitioner in M.C. No.10 of 2006.

The petitioner/ respondent No.1 herein filed maintenance case under Section 125 Cr.P.C. and claimed an amount of Rs.3,000/- from the respondent/ revision petitioner herein, towards maintenance. The case of the petitioner/ respondent No.1 is that on 06.11.2003 her marriage was performed with the respondent/ revision petitioner herein at Sattivel Kalyanamandapam, as per Hindu rights and customs. Seven months after their marriage, her husband, the revision petitioner herein, developed bad vices like drinking, illicit intimacy with another lady and started ill treating her. In June, 2004, she left the company of the respondent/ revision petitioner

herein and went to her parents. It is further case of the petitioner/ respondent No.1 herein that on 11.08.2005 mediation was held at the instance of their parents. After the mediation also, she was beaten by the respondent/ revision petitioner herein black and blue and drove her out of the house. On a report given by her, the Police registered a case in Crime No.18 of 2006 against the respondent/ revision petitioner herein. The further case of the petitioner/ respondent No.1 herein that the respondent/ revision petitioner herein is RMP doctor by profession and earning Rs.20,000/- per month. Since, she was willfully neglected to maintain by the revision petitioner, she claims an amount of Rs.3,000/- towards maintenance.

In the counter filed by the respondent/ revision petitioner herein, it is stated that the petitioner/ respondent No.1 herein started disliking his disabled sister and demanded him to settle at Tirupati, when he refused to do so, the petitioner/ respondent No.1 herein picked up unnecessary quarrels; as such, they both were living separately from his parents in Venkatagiri Town; later, he came to know that his wife, the respondent No.1 herein, secured a job as a teacher in Tirupati and getting an amount of Rs.5,000/- per month towards salary. He further stated in the counter that the petitioner/ respondent No.1 leading an independent life. In order get some more money from him, the petitioner/ respondent No.1 herein

filed false case; the petitioner/ respondent No.1 herein herself deserted the respondent/ revision petitioner herein. Hence, he seeks dismissal of the maintenance case.

During the course of trial, on behalf of the petitioner/ respondent No.1 herein, P.Ws.1 and 2 were examined, but no document was marked. On behalf of the respondent, R.Ws.1 and 2 were examined and Ex.B.1 was marked. After considering the oral and documentary evidence, the learned Judge, Family Court, held that the respondent/ revision petitioner has not proved the income of the petitioner/ respondent No.1 herein and basing on the evidence of P.W.1 granted Rs.1,500/- per month towards maintenance. Aggrieved thereby, the present criminal revision is preferred.

Heard learned counsel for the revision petitioner and respondent No.1.

Learned counsel for the revision petitioner submitted that without any justification, the respondent No.1 voluntarily left the company of the revision petitioner; claimed an amount of Rs.3,000/- towards maintenance; the respondent No.1 is working as a teacher and earning Rs.5,000/- per month and to harass the revision petitioner, she filed maintenance case. It is further submitted the learned Judge, Family Court, has not considered the evidence on record and granted an amount of Rs.1,500/- towards maintenance. It is also submitted that though the

revision petitioner is RMP doctor by profession, is not earning Rs.20,000/- per month, and prayed the Court to set aside the Order dated 26.09.2007 passed by the Judge, Family Court – cum – V Additional District and Sessions Judge, Tirupati, in M.C. No.10 of 2006.

Learned counsel for respondent No.1 submitted that the respondent No.1 is not working as teacher and earns Rs.5,000/- per month. It is submitted that the respondent No.1 herein left the company of the revision petitioner due to his bad vices and harassment. It is further submitted that the Court below granted an amount of Rs.1,500/- towards maintenance is just and reasonable, the said Order needs no interference and prayed the Court to dismiss the criminal revision.

Now the point that arise for consideration, is whether the Order dated 26.09.2007, passed by the Judge, Family Court-cum- V Additional District and Sessions Judge, Tirupati, in M.C. 10 of 2006 needs interference?

POINT:

A perusal of the oral and documentary evidence adduced on both sides, it is clear that the marriage of the revision petitioner and respondent No.1 was performed on 06.11.2003 at Sattivel Kalyanamandapam as per Hindu rights and customs and they were lived happily for a period of seven months. Thereafter, the revision petitioner developed bad vices, illegal intimacy with another lady and started ill treating the respondent No.1, as such she

left the company of the revision petitioner and went to her parents house. The above facts were supported by the evidence of P.Ws.1 and 2.

The main contention of learned counsel for the revision petitioner is that though the revision petitioner is RMP doctor by profession, is not getting an amount of Rs.20,000/- per month, the respondent No.1 willfully deserted the revision petitioner, and the revision petitioner is innocent and never harassed the respondent No.1.

A perusal of the evidence of P.W.1, it reveals that while she was living with the revision petitioner, she was used to be beaten by the revision petitioner and on such occasion, her hand was fractured. In that regard, mediation was held on 11.08.2005, but it was failed. The evidence of P.W.2, who is the mother of P.W.1, also supported the evidence of P.W.1 and she clearly stated that the revision petitioner neglected her daughter and he also beat the respondent No.1 without any reason, as such her daughter came to their house.

On the other hand, the evidence of R.W.1 reveals that the respondent No.1 used to doubt his character and after the marriage, the respondent No.1 refused to take care of his handicapped sister, and admitted that a mediation was held before the S.I. of Police, in that mediation he agreed to lead the marital life with the respondent No.1 happily and denied about the illegal intimacy as alleged.

Admittedly, after the marriage, the revision petitioner and respondent No.1 were lived happily for some time, thereafter the revision petitioner developed bad vices and illicit intimacy with another woman, thereby he beat the respondent No.1. The respondent also categorically stated that respondent No.1 is earning an amount of Rs.5,000/- per month by working as a school teacher, but there is no evidence to prove the said fact. On the other hand, the respondent No.1 in her evidence as P.W.1 stated that the revision petitioner is RMP doctor by profession and earning an amount of Rs.20,000/- per month.

The Court below, after considering the oral and documentary evidence, granted an amount of Rs.1,500/- to the respondent No.1 herein towards maintenance and the said maintenance is just and reasonable and warrants no interference. Hence, the criminal revision is liable to be dismissed.

Accordingly, the criminal revision is dismissed.

Miscellaneous Petitions, if any, pending in this criminal revision shall stand closed.

ANIS, J

March 06, 2015
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