

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

Criminal Revision Case No. 746 of 2013

Order:

This Criminal Revision Case is directed against the orders, dated 25.03.2013, passed in CrI.M.P No. 61 of 2013 in DVC No.430 of 2012 by the learned IV Metropolitan Magistrate, Hyderabad, whereby and whereunder the learned Magistrate has confirmed the earlier orders passed on 20.10.2012 in DVC No.430 of 2012 granting interim maintenance of Rs.3,000/- per month to the respondent-wife.

The contention of the learned counsel for the revision petitioner-husband is that the respondent-wife was already awarded maintenance of Rs.3,000/- per month in MC No.164 of 2007 as long back as in the year 2007 and that amount is being paid regularly by the revision petitioner to the respondent-wife and the said order of the learned Judge was confirmed by this Court in CrI.R.C. No.475 of 2009 and, when the matter stood thus, the respondent-wife has initiated proceedings under the Domestic Violence Act by filing DVC No.430 of 2012 and in those proceedings interim maintenance of Rs.3,000/- per month is awarded by the learned Magistrate, vide impugned order dated 25.03.2013. Learned counsel for the revision petitioner submits that the maintenance awarded to the respondent-wife cannot be sustained in view of the fact that even prior thereto there is an order from the competent Court directing the revision petitioner to pay interim maintenance of Rs.3000/- per month to the respondent-wife, which he is complying with and the learned counsel by relying on a decision of this Court reported in **Mathi Venkata Raju v. State of AP**, submits that the maintenance to the wife cannot be granted in both the proceedings i.e., one in the maintenance case initiated under the Code of Criminal Procedure and the other in the proceedings initiated under the Protection of Women from Domestic Violence Act.

Learned counsel appearing for the respondent-wife submits that the amount

of Rs.3,000/- granted to the respondent-wife is negligible and considering the escalation in the cost of living, the impugned order cannot be interfered with.

Having perused the material on record, it is a fit case where interference in the impugned order is warranted. The relationship between the petitioner and the respondent is not in dispute. The petitioner-husband is also said to have filed a divorce petition in OP No.308 of 2010 and the said OP was allowed, but aggrieved by the same, an appeal has been preferred. In MC No.164 of 2007 maintenance of Rs.3,000/- per month was awarded from the date of petition and there is no dispute that the said maintenance amount awarded in MC No.164 of 2007 is being paid regularly by the revision petitioner to the respondent-wife. When the matter stood thus, the respondent-wife has initiated proceedings under the Domestic Violence Act by filing DVC No.430 of 2012 and in those proceedings interim maintenance of Rs.3,000/- per month is awarded by the learned Magistrate, vide impugned order dated 25.03.2013. As per the decision of this Court in **Mathi Venkata Raju's** case (1 supra), maintenance awarded in DVC need not be separately paid in addition to the maintenance awarded in maintenance case. A remedy is available to the respondent-wife to seek enhancement of maintenance granted earlier, however, no parallel proceedings for grant of maintenance can be taken out. Therefore, the impugned order is liable to be set aside.

Accordingly, the Criminal Revision Case is allowed and the impugned order is set aside.

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

M.S.K. JAISWAL, J.

Date: 10.06.2015

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