

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE NO.2291 of 2013

ORDER :

The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 17.07.2013 passed by the Judge, Family Court-cum-Additional District Judge, Nalgonda, in M.C.No.30 of 2011.

The facts in issue are as under:

Respondents 1 and 2 herein, who are the children of the petitioner herein filed M.C.No.30 of 2011 seeking maintenance. One Sri Pasupate Uppalaiah was the natural maternal grand-father of the children. The maternal grand father of the children performed his daughter's marriage with the petitioner on 21.02.2002 and they lived happily for some time and thereafter, disputes arose between them. Due to harassment by the petitioner, the mother of respondents 1 and 2 committed suicide on 21.02.2011. Since then, respondents 1 and 2 were under the care and custody of their maternal grand father and continued their education. It is stated that the petitioner is a teacher, getting salary of Rs.20,000/- per month, apart from annual income of Rs.2,00,000/- from agricultural source.

A counter affidavit came to be filed by the petitioner herein in M.C.No.30 of 2011 opposing the said application stating that he has love and affection towards his children and that he has filed G.W.O.P.No.62 of 2011, under the Guardians and Wards Act seeking custody of children. Such being the position, it is stated that the question of paying maintenance to them would not arise. He has submitted that there is every likelihood of misuse of maintenance amount paid to the children by their grand father. He also submitted that if respondents 1 and 2 are ready to stay with him, he is willing to take care of them.

In support of the case of the respondents herein, PWs.1 and 2 were examined, whereas, petitioner herein was examined as RW.1 and no documents were marked on either side.

The Court below, after considering the rival contentions and considering

the fact that respondents 1 and 2 are staying along with their maternal grand father and that the petitioner herein is having sufficient means to maintain the children, partly allowed the maintenance case and awarded maintenance @ Rs.3,000/- per month from the date of the order. Further, the petitioner herein was directed to pay maintenance on or before 5th of every succeeding calendar month and arrears if any. Challenging the same, the present revision case is filed.

Heard learned counsel for the petitioner, learned counsel for respondents 1 and 2 and the learned Additional Public Prosecutor representing the State.

Learned counsel for the petitioner mainly submitted that the petitioner has already filed GWOP seeking custody of children and the same is still pending. Therefore, the question of paying maintenance to the respondents does not arise. He further submitted that there is every likelihood of mis-use of maintenance amount by the grand parents of the respondents and that he seeks custody of the children.

Learned counsel for the respondents opposed the same.

A perusal of the material available on record and arguments of both, sides would show that immediately after the death of the mother of respondents 1 and 2, they were sent to their maternal grand parents house and since then they are living with them. Therefore, the apprehension of mis-use of maintenance amount by the grand parents cannot be accepted. Even according to the petitioner, he is drawing Rs.18,337/- per month and after deductions towards his contribution to GPF, insurance and others he is drawing Rs.16,747/- per month. Therefore, the quantum of compensation awarded by the Court below cannot be said to be on a higher side. In fact, this Court granted conditional stay on 30.01.2014, which according to the respondents is not complied with.

In view of the above facts and circumstances, I do not find any reasons to interfere with the order passed by the trial Court.

Accordingly, the revision case is dismissed. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

02.04.2015

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