

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

CRL.R.C.No.1399 of 2012

ORDER:

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This revision is directed against the orders of the learned Judge, Family Court, SPSR Nellore District in F.C.O.P.No.156 of 2009, dated 30-05-2012, by and under which the learned Judge has granted a sum of Rs.2,500/- per month, each, to the respondents 1 and 2, i.e. the wife and daughter of the petitioner, towards maintenance.

The admitted fact is that the marriage between the petitioner and the 1st respondent took place in the year 2008, and they were blessed with a daughter, who is the 2nd respondent herein.

The allegation of the 1st respondent was that when she was carrying nine months pregnancy, the petitioner-husband and his relatives driven out her from the house, and since then, she is living separately. The learned Judge after taking into consideration the oral and documentary evidence placed on record, awarded a sum of Rs.2,500/- per month, each, to the wife and minor daughter. The contention of the learned counsel for the petitioner is that the Court below has erred in awarding monthly maintenance for the reason that there was no justification on the part of the

1st respondent-wife to withdraw from the company of the petitioner-husband. It is further submitted that the petitioner has lost his employment, in view of the cases filed against him, and he is not having any source of income for paying the maintenance.

In so far as the first objection is concerned, it is noticed that the evidence of the 1st respondent, as PW-1, was corroborated by PWs 2 and 3, that she was driven out of the house of the petitioner, and the circumstances created was such that it was made impossible and miserable to live in the house of the petitioner.

An attempt to do away with the life of the 1st respondent was also made. In that view of the matter, it cannot be said that the 1st respondent has no justification for leaving the house of the petitioner-husband and claim maintenance.

With regard to the quantum of maintenance, the learned counsel for the petitioner submits that even though the petitioner-husband was gainfully employed, but subsequently, in view of the cases filed against him, he lost his employment and he is jobless.

In determining the quantum of maintenance what is required is as to whether the husband is able to maintain his wife and daughter, and what is the just and reasonable amount, that can be awarded towards maintenance. The earning capacity of the husband needs to be considered in this regard. It has come in the evidence that the petitioner was working as Lecturer in a private Engineering College. If he is removed from a College, it cannot be said that he is not working anywhere. Therefore, the allegation that he is jobless and has no income to pay Rs.5,000/- per month towards maintenance cannot be accepted. The Court below has dealt with the matter in proper perspective and granted maintenance

@ Rs.2,500/- per month, each, to the wife and minor child. Considering the interest of the wife and daughter of the petitioner and the surrounding circumstances, this amount of maintenance cannot be said to be in any way excessive.

In that view of the matter, this revision is dismissed. There shall be no order as to costs.

M.S.K. JAISWAL, J.

Dt.18-09-2015.

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