

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.1805 OF 2012

ORDER:

This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the order dated 02.08.2012 in CrI.M.P.No.3491 of 2010 in M.C.No.24 of 1992, passed by the Additional Judicial Magistrate of I Class, Kadiri.

2. The revision petitioner herein is the respondent and the 1st respondent herein is the petitioner in CrI.M.P.No.3491 of 2010 in M.C.No.24 of 1992.

3. The case of the 1st respondent herein/petitioner before the trial Court is that the trial Court granted maintenance amount of Rs.150/- to her and it was enhanced to Rs.800/- per month vide order dated 26.07.2004 in CrI.M.P.No.1269 of 2003 and the said amount is not sufficient for her to maintain herself as she is suffering from various ailments and not in a position to meet the medical expenses from the meagre maintenance amount of Rs.800/- awarded to her. Further the revision petitioner/respondent is receiving salary of more than Rs.38,804/- and she prays to enhance her amount from Rs.800/- to Rs.10,000/-.

4. After hearing both sides and after considering the evidence on record, the trial Court enhanced the maintenance amount of Rs.800/- per month to Rs.3,000/- per month vide its order dated 02.08.2012.

5. Being aggrieved by the order in CrI.M.P.No.3491 of 2010 in M.C.No.24 of 1992, the respondent preferred the present revision case.

6. The learned counsel appearing for the revision petitioner/respondent is challenging the said order on the ground that revision petitioner is not in a position to pay such a huge amount of Rs.3,000/-, as the petitioner's take home salary is Rs.4,146/- per month after deductions and further the 1st respondent is giving tuitions and also doing tailoring work and splicing flower and getting sufficient income to maintain herself. It is also argued that the 1st respondent is having sufficient properties to maintain herself. Therefore, prayed the Court to reduce the maintenance.

7. On the other hand, the learned counsel for the 1st respondent/petitioner argued that 1st respondent is an old lady of 54 years and enhancing the maintenance from Rs.800/- to Rs.3,000/- is also not sufficient for the old lady who is suffering ailments. It is also further argued that the revision petitioner failed to pay arrears of maintenance and prayed the Court to dismiss the petition.

8. Now, the point for determination is --

Whether the revision petitioner is entitled to set aside the orders passed in CrI.M.P.No.3491 of 2010 in M.C.No.24 of 1992 dated 02.08.2012?

9. **POINT:**

After hearing both sides and on perusal of the record, it shows that the 1st respondent already filed M.C.No.24 of 1992 for grant of maintenance against the petitioner herein and on 19.04.1993, the trial Court granted maintenance of Rs.150/- per month. The petitioner contended that he gave divorce to the respondent herein and got performed second marriage. He is having four children and he has to maintain mother and brother and he is getting only Rs.4,000/- as income. He also further contended that the 1st respondent herein is giving tuitions and also doing tailoring and splicing flower and getting

Rs.600/- to Rs.800/- per month. Therefore, the revision petitioner need not maintain the respondent. There is no dispute, initially the revision petitioner was ready to maintain the 1st respondent herein and after considering the evidence, time to time, the trial Court enhanced the maintenance from Rs.150/- to Rs.3,000/-. The contention of the revision petitioner that the 1st respondent is having sufficient income to maintain herself is not proved by cogent evidence.

10. The trial Court after taking into consideration about the cost of living enhanced the maintenance to the 1st respondent herein and order of the trial Court in CrI.M.P.No.3491 of 2010 in M.C.No.24 of 1992 needs no interference. Accordingly, the point is answered against the revision petitioner.

11. Accordingly, the Criminal Revision Case is dismissed confirming the order dated 02.08.2012 passed by the Additional Judicial Magistrate of I Class, Kadiri, in CrI.M.P.No.3491 of 2010 in M.C.No.24 of 1992.

12. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

ANIS, J

Date:12.02.2015
PNV