

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 1149 of 2015

ORDER:

- 1) Assailing the order dated 23.07.2012 passed in CrI.M.P. No.782 of 2014 in M.C. No.39 of 2004 on the file of the Judicial Magistrate of First Class at Suryapet, the present Revision is filed under Sections 397 and 401 Cr.P.C.
- 2) The factual matrix of the case is as under :
- 3) The first respondent herein is the wife and the second respondent herein is the minor son of the petitioner/husband. The respondents herein filed M.C.No.39 of 2004 claiming maintenance. The said M.C. was allowed on 21.08.2006 awarding maintenance @ Rs.1,500/- to the first respondent and Rs.1,000/- per month to the second respondent herein from the date of order. Thereafter in the year, 2011 the respondents herein filed CrI.M.P. No.782 of 2011 under Section 127(1) Cr.P.C. seeking enhancement of the maintenance amount from Rs.1,500/- to Rs.4,000/- to the first respondent and from Rs.1,000/- to Rs.3,000/- to the second respondent herein. Having regard to the facts and circumstances and increase in cost of living, the said application was allowed directing the petitioner herein to pay maintenance @ Rs.4,000/- per month to the first respondent and Rs.2,000/- to the second respondent herein commencing from 01.07.2012. The Drawing Officer of the petitioner herein was directed to deduct the enhanced maintenance of Rs.6,000/- per month and pay to the

respondents herein directly every month. Challenging the same, the present Revision is filed.

4) As seen from the record, there is no dispute with regard to the relationship of the petitioner with the respondents. Learned counsel for the petitioner only submits that the quantum of the maintenance awarded by the trial court is on higher side and hence seeking reduction of the same. He submits that the first respondent is the second wife of the petitioner and the petitioner is having first wife through whom he blessed with two female children and is also having parents to be looked after hence submits that awarding maintenance of Rs.6,000/- per month is on higher side. Apart from that he further submits that his client is ready to pay maintenance amount directly to the account of the respondent and hence seeks modification of the order with regard to deduction from salary. The same is opposed by the first respondent, who appeared in-person stating that if the said condition is modified, there is every likelihood of petitioner committing default and would make the respondents go around the Courts for execution. She further submits that she has to maintain her child who is aged about 12 years and it has become very difficult to her to pay even the fees. She placed on record the salary certificate of the petitioner herein, the medical certificates marked as Exs.P-11 to P-17 and also school fee receipts of her son marked as Exs.P-3 to P-9. In view of the fact that there is no dispute with regard to relationship, the question would be whether the respondents are entitled for any enhancement of the maintenance?

5) It is also seen from the record, more particularly with regard to salary particulars, the petitioner is earning more than Rs.40,000/- per month as he is working as Assistant Registrar in the office of Divisional Cooperative Office in Nalgonda District. Such being the position, awarding Rs.6,000/- per month to be paid to both the respondents i.e., his wife and child, cannot be said to be on higher side, in view of the escalation of the cost of living and the expenditure which is incurred in day to day life.

6) Insofar as the payment of maintenance directly to the respondents instead of deducting from salary, it is to be noted that as per the counsel for the petitioner, the source of payment of maintenance is the salary of the petitioner only. Such being the position no prejudice would be caused, if the quantum of maintenance is directed to be deducted from the salary of the petitioner. Therefore, this Court is of the opinion that the order under challenge warrants no interference.

7) Accordingly, the Criminal Revision Case is dismissed. As a sequel to it, miscellaneous petitions, pending if any in this Criminal Revision Case shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

22.09.2016
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