

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.3220 of 2015

ORDER:

Heard learned counsel for the petitioner and learned counsel for respondent Nos.1 and 2.

Aggrieved by the order dated 19.11.2015 passed in Crl.A.Nos. 1065 of 2014 and 1156 of 2014 on the file of the V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad, the present revision is filed.

A perusal of the material on record would show that respondent Nos.1 and 2 herein filed D.V.C.No.426 of 2012 on the file of the IV Metropolitan Magistrate (Traffic Mobile Court), Hyderabad. During pendency of the D.V.C. they also filed Crl.M.P.No.1609 of 2013 seeking interim maintenance and alternative accommodation. By an order, dated 18.10.2014, the learned Magistrate passed the following orders:

“Rs.5,000/- per month to respondent No.1 herein and Rs.2,000/- per month to respondent No.2 towards maintenance and also awarded Rs.5,000/- per month towards their alternative accommodation charges from the date of petition ie. 30.10.2013.”

Challenging the same the petitioner herein filed Crl.A.No.1065 of 2014 and respondent Nos.1 and 2 herein filed Crl.A.No.1156 of 2014. Both the appeals were dismissed by the learned Sessions Judge confirming the orders passed by the trial Court. Challenging the same, the petitioner preferred the revision.

At the stage of admission, a learned Single Judge of this Court without issuing notice to the respondents disposed of the

revision. The relevant portion of the order dated 05.01.2016 reads as under:

- 1) The petitioner is directed to pay 50% of the amount ordered by the Court below ie. Rs.2,500/- and Rs.1,000/- to respondent Nos.1 and 2 respectively as maintenance; and Rs.2,500/- to respondent No.1 towards alternative accommodation on or before 10th of every succeeding month.
- 2) The petitioner is also directed to pay the arrears of maintenance amount calculating at 50% of the maintenance amount ordered by the Court below, within a period of three months from the date of the order; and
- 3) The trial Court is directed to dispose of D.V.C.No.426 of 2012 as expeditiously as possible, preferably within a period of six months, without being influenced by order of this Court.

Coming to know about the said order, respondent Nos.1 and 2 herein filed Crl.R.C.M.P.No.659 of 2015 seeking to recall the order passed by this Court earlier, since no notice was given to them. By an order dated 12.02.2016 this Court recalled the order dated 05.01.2016.

Learned counsel for the petitioner submits that in view of the earlier order passed by this Court reducing the maintenance to 50% which is just and reasonable and prays for confirmation of the same pending the main D.V.C.

Learned counsel for respondent Nos.1 and 2 opposed the revision contending that the petitioner is Government Servant working as a Senior Assistant and earning nearly Rs.55,000/- to Rs.60,000/- per month. She further submits that an amount of

Rs.2,000/- to the daughter and Rs.5,000/- to the wife cannot be said to be on higher side having regard to the cost of living.

The only issue is with regard to quantum of maintenance to be awarded. Both the forums have concurrently held that respondent Nos.1 and 2 herein are entitled to Rs.5,000/- and Rs.2,000/- per month respectively and also Rs.5,000/- for getting an alternative accommodation in view of the provisions of the Protection of Women from Domestic Violence Act, 2005. Since the main D.V.C. is still pending and necessary evidence has to be adduced to prove as to whether respondent Nos.1 and 2 are entitled to maintenance and as they are entitled for any alternative accommodation, it may not be proper for this Court to interfere with the orders passed by the trial Court which was confirmed by the appellate Court.

In view of the above, the Criminal Revision Case is dismissed confirming the orders passed by the trial Court and the appellate Court. However, it is made clear that the trial Court shall dispose of the D.V.C. as expeditiously as possible, preferably, within a period of six months from today. The petitioner shall deposit 70% of the arrears of maintenance, if any, pending within a period of eight (08) weeks from today, in default, respondent Nos.1 and 2 are at liberty to take steps against the petitioner. However, on deposit made, respondent Nos.1 and 2 are permitted to withdraw the same without furnishing any security.

Miscellaneous petitions, if any, pending, shall stand closed.

C.PRAVEEN KUMAR,J

31.03.2016

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