

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 1866 of 2015

ORDER:

Aggrieved by the order passed in M.C. No.8 of 2015 on the file of the Principal Junior Civil Judge, Bhimavaram, wherein the application under Section 125 Cr.P.C., seeking maintenance to the respondents 2 to 4 herein, was allowed granting maintenance @ Rs.5,000/- p.m., to the 1st petitioner and Rs.8,000/- p.m., each to the petitioners 2 and 3, the present Revision is filed under Sections 397 and 401 of Code of Criminal Procedure.

For the sake of convenience, the parties will hereinafter be referred to as arrayed in M.C.

The facts in issue are as under :

The marriage between the 1st petitioner with the respondent was performed on 26.12.1999 at Nowduru village of Veeravasaram Mandal as per the Hindu rites and customs. At the time of marriage, the parents of 1st petitioner gave Ac.1.00 of agricultural land and Rs.3,00,000/- cash to the respondent as dowry besides Rs.50,000/- adapaduchu lanchanams and 10 sovereign of gold. The marriage was consummated and the 1st petitioner joined the respondent at his house in Bhansuvada at Nizamabad District along with the parents of the respondents. They were blessed with two children i.e., petitioners 2 and 3. While things stood thus, in the year 2004 the petitioners, respondent along with his family shifted to Hyderabad. Since then the respondent and his parents started harassing the 1st petitioner with a demand of additional

dowry of Rs.2,00,000/-. Further, they were harassing the 1st petitioner as she gave birth to a female child. At that juncture, the parents of the 1st petitioner adjusted Rs.1,00,000/- to the respondent and his parents as additional dowry. As they were not satisfied with the said amount, demanded for remaining additional dowry. Finally, when the 1st petitioner was driven out from her matrimonial home, she returned to her parents house at Nowduru. Since then she along with her children have been residing in the house of her parents at Nowduru. Further, on a report given by the first petitioner, a case in Crime No.63/14 came to be registered for the offences punishable under Section 498-A, 323 read with 34 IPC. It is said that the petitioners, who have no movable or immovable properties except Ac.1.00 of land in the name of the first petitioner are unable to maintain themselves. The respondent is having a own house at Hyderabad and also Ac.4.00 of agricultural land and other properties at Nowduru and working as Software Engineer at Tech Mahindra at Hyderabad and getting Rs.1,10,000/- as salary. The respondent is also doing finance business and getting Rs.1,00,000/- per month and in addition to that he is also getting Rs.2,00,000/- per year as agricultural income. Hence, the petitioners filed the present application seeking maintenance @ Rs.20,000/- each towards their maintenance.

A counter came to be filed denying all the allegations and contending that the respondent married the 1st petitioner without any dowry. The father of the respondent is the brother of the 1st petitioner's mother. Their marriage was performed at the instance of Kandula Adinarayana, who is paternal grandfather of the respondent and maternal grandfather of the 1st petitioner. It is

submitted that the father of the 1st petitioner having lands in Nowduru village. The two brothers of the 1st petitioner are also well settled and residing at Hyderabad and Indonesia respectively. Further he admits his avocation but stating that he is getting only Rs.80,000/- as his salary, but he submits that after the entire deductions from his gross salary he is getting only Rs.40,000/- as net. He further submits that as he refused to act as illatum son-in-law, the 1st petitioner refused to join the respondent and lastly on 16.06.2014 without informing to the respondent she left her matrimonial home along with her children and presented a false report. He submits that since the 1st petitioner who is in sound financial position, could maintain herself and the petitioners 2 and 3, they are not entitled to get any maintenance.

The first petitioner herself was examined as P.W.1 and on her behalf P.W.2 was also examined but no document is marked. The respondent was examined himself as R.W.1, no documentary evidence was adduced on his behalf. After appreciating the evidence available on record and also taking into consideration the means of the respondent, the trial court awarded a sum of Rs.5,000/- to the first petitioner and Rs.8,000/- each to the petitioners 2 and 3 payable by the respondent from the date of the order. Challenging the same, the present Revision came to be filed.

The learned counsel for the petitioner strenuously contends that the maintenance awarded to the respondents 2 to 4 i.e., totaling Rs.21,000/- is on higher side and the same needs to be reduced. He further contended that the net salary of the petitioner has to be taken into consideration for awarding compensation.

Further, the respondents failed to establish that the petitioner is getting agricultural income. In view of the above, he submits that the orders under challenge needs interference.

On the other hand, the learned counsel for the respondents 2 to 4 opposed the application contending that the petitioner is working as an Software Engineer in a reputed company and earning more than Rs.1,00,000/- per month in addition to the agricultural and other income, as such it cannot be said that the quantum of compensation awarded is on higher side.

The only dispute raised in this Criminal Revision is with regard to the quantum of maintenance to be awarded to be respondent. It is to be noted that the plea of the second respondent is that the revision petitioner is earning an amount of Rs.1,10,000/- as salary in addition to Rs.1,00,000/- per month through finance business and Rs.2,00,000/- per year towards agricultural income. But, however she failed to adduce any material in support of the same. A perusal of the impugned order would show that the petitioner herein admitted his avocation as Software Engineer and getting Rs.80,000/- as his gross salary. He also admitted having Ac.4.00 of land at Nowduru which is an ancestral property. The trial Court after considering the entire evidence and the admissions made by the petitioner, ordered the petitioner to pay Rs.5,000/- p.m., to the second respondent and Rs.8,000/- p.m., each to the respondents 3 and 4 as maintenance which in my view appears to be reasonable and proper having regard to admissions made and the evidence adduced. Hence, the impugned order warrants no interference of this Court and the quantum of maintenance awarded by the trial court to the respondents 2 to 4, cannot be said to be on higher side.

Accordingly, the Criminal Revision Case is dismissed confirming the order of the trial court. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 04.04.2016
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