

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1770 OF 2008

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/petitioner challenging the order, dated 17.9.2008, in F.C.M.C.No.11 of 2008 on the file of the Judge, Family Court, Anantapur, Andhra Pradesh whereunder and whereby, the petition filed by the petitioner under Section 125 Cr.P.C. against respondent No.1 claiming maintenance of Rs.5,000/- per month was dismissed.

2. Petitioner is the wife of respondent No.1. She filed M.C.No.37 of 2007 on the file of the Additional Judicial First Class Magistrate, Ananthapur seeking maintenance of Rs.5,000/- per month and the same was transferred to the Judge, Family Court, Ananthapur and numbered as F.C.M.C.No.11 of 2008. The trial Court, after evaluating the entire evidence and taking into consideration of the fact that the petitioner has married some other person and she was a widow and also getting widow pension of Rs.200/- per month, held that the claim of the petitioner against respondent No.1 for maintenance is not maintainable as she is not the legally wedded wife of respondent No.1, as contemplated under Section 125(1)(a) Cr.P.C., and accordingly, dismissed the maintenance case. Challenging the said order, she filed the present Criminal Revision Case.

3. Heard and perused the material available on record.

4. Learned counsel for the petitioner submitted that the petitioner and respondent No.1 lived together as wife and husband for 33 years and during their wedlock, one girl was born, who was aged 30 years at the time of filing of the maintenance case and that the petitioner filed photographs before the trial Court to substantiate that respondent No.1

participated in the marriage of her daughter and his involvement as a father.

5. Learned Additional Public Prosecutor submitted that respondent No.1 has married one Parvathi and through her, three children were born and there is no relationship of husband and wife between respondent No.1 and the petitioner and respondent No.1 has examined his wife Parvathi to substantiate that he is living with his wife and respondent No.1 has produced documents before the trial Court to show that the petitioner was getting widow pension of Rs.200/- per month by showing some other person as her husband.

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6. The petitioner has filed the maintenance case informing that her marriage was performed with respondent No.1 about 33 years prior to the filing of the petition. Respondent No.1 has proved that the petitioner is the wife of some other person and she was getting widow pension. Considering the facts and circumstances of the case, this Court is of the view that the trial Court rightly dismissed the maintenance case and that order needs no interference of this Court. Hence, the Revision Case fails and is liable to be dismissed.

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7. Accordingly, the Criminal Revision Case is dismissed.

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

JUSTICE RAJA ELANGO

22.7.2016
AMD

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