

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.1089 of 2008

ORDER:

The Criminal Revision Case is filed against the order dated 24.11.2006 in M.C.No.241 of 2003 on the file of the Judge, Family Court, Visakhapatnam.

The only grievance of the petitioners is that the Court below instead of granting maintenance from the date of petition, granted maintenance from the date of order.

The facts in brief are that the 1st respondent is the husband of the 1st petitioner and the 2nd petitioner is their son. Due to some disputes, both the 1st petitioner/wife and the 1st respondent/husband are living separately and ultimately the 1st petitioner/wife initiated proceedings under Section 498-A IPC against the 1st respondent/husband and his family members and she also filed M.C.No.241/2003 on 13.10.2003 seeking maintenance from the husband.

On behalf of 1st petitioner/wife, she herself examined as PW 1 and got examined PWs 2 and 3 on her behalf. On behalf of 1st respondent/husband, the husband himself was examined as RW 1 and produced Ex.B1 wage slip, stating that he is drawing only Rs.2,694/- per month after deductions. The Court below after taking into consideration the totality of facts and circumstances of the case, awarded monthly maintenance to the 1st petitioner/wife and the 2nd petitioner/son @Rs.800/- and Rs.400/- respectively from the date of order i.e. from 24.11.2006.

The learned counsel for the petitioners submits that for nearly 3 years, the petitioners/wife & son were left to suffer without there being

any maintenance and therefore, the Court below ought to have granted maintenance from the date of petition instead of from the date of order. The learned counsel in support of her contention placed reliance on the judgement of the Hon'ble Supreme Court in *Bhuwan Mohan Singh v. Meena* {Crl.A.No.1331/2014, dated 15.07.2004}, where the Hon'ble Supreme Court observed that when there was delay of 9 years during which the petition was pending, it is just and proper to grant maintenance from the date of petition.

In the instant case, nothing is placed on record to show that the 1st respondent/husband is responsible for delay in disposing of the maintenance case. The petitioner/wife was not awarded any interim maintenance. The Court below has exercised its discretion in awarding the maintenance from the date of order. Exercise of such discretion cannot be said to be irregular or illegal. I see no grounds to interfere with the order of the Court below.

The Criminal Revision Case is accordingly dismissed. However, it is left open to the petitioner/wife to approach appropriate Forum for enhancement of maintenance, if she is so advised.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 05.01.2016

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