

HONOURABLE SRI JUSTICE M.S.K.JAISWAL

CRL.P.No.1200 of 2010

ORDER:

This Criminal Petition is filed by the Petitioner-husband questioning the correctness of the order dated 14.12.2009 passed in Crl.R.P.No.28 of 2009 on the file of the Sessions Judge, Warangal, confirming the order dated 15.05.2009 passed in M.C.No.12 of 2007 on the file of the IV-Additional Judicial Magistrate of First Class, Warangal.

The 2nd respondent-wife filed the aforesaid M.C.No.12 of 2007 against the petitioner-husband seeking maintenance at the rate of Rs.5,000/- per month. The trial Court, after an analysis of the entire evidence available on record, allowed the said M.C., by order dated 15.05.2009, directing the petitioner-husband to pay monthly maintenance at the rate of Rs.2,000/- to the 2nd respondent-wife from the date of filing of the petition. Aggrieved by the said order, the petitioner-husband preferred Crl.R.P.No.28 of 2009 and the learned Sessions Judge, Warangal, after re-assessing the entire evidence, dismissed the said revision. Questioning the said order, the present criminal petition is filed by the petitioner-husband.

Learned Counsel for the petitioner-husband submitted that the petitioner obtained divorce under Ex.R3

from the 2nd respondent in the year 1963 and thereafter he got married one Sarojini Devi, through whom he begotten two children, but after some time the 2nd respondent resumed cohabitation with him and begotten two children. He further submitted that the Courts below failed to consider the document Ex.R5 dated 29.01.1992 executed by one Erra Rajendar, who is the son of the petitioner through the 2nd respondent, wherein he has admitted that Ac.1.00 of land in Sy.Nos.548/1 and 548/2 was given by the petitioner towards maintenance of the 2nd respondent. He further submitted that the 2nd respondent is getting income from the aforesaid property and that she has got means to maintain herself and as such she is not entitled to claim maintenance amount from the petitioner.

Learned Counsel for the 2nd respondent-wife submitted that the 2nd respondent is the legally wedded wife of the petitioner, who was drawing a salary of Rs.18,000/- per month as on the date of filing of the M.C. He further submitted that Ac.1.00 of land alleged to have given by the petitioner would not have fetched any income for the maintenance of the 2nd respondent. He further submitted that the Courts below have appreciated the entire evidence in a right perspective and came to the conclusion that the 2nd respondent-wife is entitled to maintenance at the rate of Rs.2,000/- per month and,

therefore, no interference is called for by this Court.

Having considered the submissions made by the learned Counsel appearing on either side and having perused the impugned orders of the Courts below, this Court is of the view that the revisional Court rightly held that Ex.R5 purported to have been executed by one Erra Rajendar, who is the son of the petitioner through the 2nd respondent, and emanating from the custody of the petitioner-husband, settling Ac.1.00 of land for maintenance of the 2nd respondent-wife is a sham document put forth to defraud the 2nd respondent-wife since the said land would not have fetched any income for her maintenance. That apart, this Court is of the view that that the petitioner-husband having adequate income from his salary as a Government Teacher at the time of filing of the Maintenance Case, has neglected and refused to maintain the 2nd respondent-wife, who has not been able to maintain herself.

The trial Court as well as the revisional Court have considered the entire evidence available on record, the financial capacity of the petitioner-husband and also the cost of living on those days in coming to the conclusion that the 2nd respondent-wife is entitled to maintenance at the rate of Rs.2,000/- per month from the date of filing of the Maintenance Case. I do not find any ground to interfere with the impugned orders of the Courts below.

Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

04-02-2016

Gsn