

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1379 OF 2012

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. challenging the order dated 01.06.2012 in M.C.No.76 of 2009 on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad.

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the M.C. before the trial Court.

3. The following admitted facts can be culled out from the oral and documentary evidence available on record:

The marriage of the petitioner was performed with the respondent on 09.05.2007, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. The petitioner and the respondent lived together happily upto 21.06.2008. Unfortunately, bad weather prevailed in the family life of the petitioner and the respondent. Basing on the complaint lodged by the petitioner, the Station House Officer, Neredmet Police Station registered a case in Crime No.275 of 2008 against the respondent and others. After completion of the investigation, the investigating officer laid charge sheet against the respondent and others for the offence punishable under Section 498-A I.P.C. The respondent and others faced the trial in C.C.No.739 of 2008 on the file of X Metropolitan Magistrate, Cyberabad, Malkajgiri. The petitioner also filed D.V.C.No.3 of 2008 on the file of X Metropolitan Magistrate, Cyberabad, Malkajgiri seeking maintenance of Rs.25,000/- per month from the respondent. The respondent filed O.P.No.389 of 2008 on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad seeking divorce from the petitioner and the same was allowed on 01.06.2012.

4. During the course of trial, on behalf of the petitioner, PWs.1 to 5 were examined and Exs.P.1 to P.8 were marked. On behalf of the respondent, RW.1 was examined and no documents were marked.

5. Basing on the material available on record, the trial Court arrived at a conclusion that the respondent intentionally and willfully neglected to provide maintenance to the petitioner and allowed the petition in part by granting maintenance of Rs.3,000/- per month to the petitioner.

6. The contention of the learned counsel for the petitioner is two fold: (1) the respondent is an employee and earning huge amount and the same was not considered by the trial Court; and (2) even as per the admission made by the respondent, he is having Ac.15.00 of agricultural land and therefore, the amount of maintenance granted by the trial Court is on lower side.

7. *Per contra*, the learned counsel for the respondent submitted that the petitioner is a highly qualified woman when compared to the respondent and she got married another person; therefore, she is not entitled to claim maintenance.

8. Now the points that arise for consideration are:

1. Whether the amount of maintenance granted by the trial Court is just and reasonable or not?

2. Whether there is any illegality or irregularity in the order of the trial Court, which warrants interference of this Court or not?

9. Point Nos.1 and 2 are interlinked with each other; hence, I am inclined to address both points simultaneously to avoid repetition.

10. A perusal of the record clearly reveals that the respondent filed O.P.No.389 of 2008 against the petitioner for dissolution of marriage without issuing any notice to her. There is no material on record to

establish that in spite of request made by the respondent, the petitioner did not choose to join with him. For the reasons best known, the respondent filed O.P.No.389 of 2008 for dissolution of marriage between himself and the petitioner. The trial Court arrived at a conclusion that the respondent himself intentionally and willfully neglected to provide maintenance to the petitioner. The respondent did not choose to file revision challenging this finding. The finding recorded by the trial Court became final. The material available on record clinchingly establishes that the respondent himself intentionally and willfully neglected to provide maintenance to the petitioner. I am fully agreeing with the finding recorded by the trial Court on this aspect.

11. At the time of argument, the learned counsel for the respondent submitted that the petitioner herein filed F.C.A.No.217 of 2012 on the file of this Court challenging the order dated 01.06.2012 in O.P.No.389 of 2008 and the same was withdrawn by her on 28.11.2013. Mere withdrawal of F.C.A. by itself is not a valid ground to dismiss the revision case. Even as per the provisions of Section 125 Cr.P.C., a divorced wife is entitled to claim maintenance. Whether the petitioner married another person or not is purely a disputed question of fact which cannot be gone into while deciding this revision without sufficient material on record. If really the petitioner remarried another person, the remedy available to the respondent is to file a petition under Section 127 Cr.P.C. before the trial Court.

12. The contention of the petitioner is that the respondent is an employee and earning huge amount. The contention of the respondent is that the petitioner is a highly qualified woman. Absolutely there is no material on record to establish that by the time of filing the petition, the petitioner was working as an employee. The fact remains that the petitioner was not an employee by the time of filing the petition. Merely because the petitioner is a highly qualified woman

that itself is not a sufficient ground to dismiss the maintenance case without looking into the other attending circumstances. As per the testimony of PW.3, the respondent was worked in Star Health and Allied Insurance Company Limited, Hyderabad. PWs.4 and 5 are the Revenue officials. The testimony of PWs.4 and 5 coupled with Exs.P.5 to P.7 clearly reveals that the respondent is having Ac.15.00 of land. The respondent himself admitted in the cross examination that he is having landed property. Absolutely there is no material on record to establish that the petitioner is having landed property or any other source of income to maintain herself. While deciding the petitions of this nature, the Court has to take into consideration the ground realities as well as the source of income of the parties to the proceedings. Taking into consideration the financial status of the respondent, the trial Court granted Rs.3,000/- per month to the petitioner. The petitioner did not file any document to prove the income derived by the respondent out of the agricultural land. The agriculturist may not get uniform income. The fact remains that the petitioner is a highly qualified woman and there is every possibility for her to get job even in future also. It appears that the trial Court taking into consideration the financial status of the respondent and educational qualification of the petitioner, granted maintenance of Rs.3,000/- per month to the petitioner. Taking into consideration the facts and circumstances of the case, I am of the considered view that granting of an amount of Rs.5,000/- per month to the petitioner is just and reasonable.

13. Hence, there are grounds much less valid grounds to interfere with the order of the trial Court so far as the quantum of maintenance is concerned. Point Nos.1 and 2 are answered accordingly.

14. In the result, the Criminal Revision Case is allowed at the stage of admission by enhancing the maintenance from Rs.3,000/- to Rs.5,000/- per month to the petitioner from the date of the order in M.C.No.76 of 2009.

15. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

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T.SUNIL CHOWDARY, J

Date: 04.07.2016

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