

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.75 of 2015

ORDER:

1) The present Criminal Revision Case is filed under Sections 397 read with 401 of Cr.P.C. challenging the order dated 26.09.2014 passed in CrI.R.P.No.21 of 2014 on the file of the Principal Sessions Judge, Guntur, wherein the learned Sessions Judge modified the order dated 03.02.2014 passed in M.C.No.2 of 2013 on the file of the Principal Junior Civil Judge, Mangalagiri.

2) A perusal of the material on record would show that the respondents 1 and 2 who are the wife and son of the petitioner, filed an application under Section 125 Cr.P.C. claiming monthly maintenance at Rs.3,000/- and Rs.5,000/- respectively. The averments in the petition would disclose that the marriage of the petitioner with the 1st respondent took place on 19.05.2006 as per Hindu rites and customs. At the time of marriage, cash of Rs.3.00 lakhs, Rs.25,000/- towards adapaduchu lanchanams and gold ornaments were given as dowry on the demand of the petitioner and his family members. Both of them lived happily for some time and thereafter they were blessed with the second respondent. It is further alleged that the petitioner and his family members used to abuse and beat the first respondent by demanding additional amounts from her parents. On one occasion the parents of the first respondent gave cash of Rs.1.00 lakh to the petitioner and his respondent, but not being satisfied they drove the respondents 1

and 2 from their house. Left with no other option the respondents 1 and 2 started living with the parents of first respondent. The record show that the petitioner filed O.P.No.370 of 2008 before the Family Court, Vijayawada, seeking restitution of conjugal rights against the 1st respondent, which ended in a compromise. As per the terms of the compromise, the 1st respondent joined the petitioner. Within two months, the petitioner and his family members started harassing the 1st respondent against sent her out of their house. Again the respondents 1 and 2 went the parents house of the 1st respondent and stayed with them. The petitioner filed O.P.No.694 of 2009 before the Family Court, Vijayawada, seeking divorce, which was dismissed as not pressed on 18.01.2010 pursuant to a joint memo filed by the 1st respondent and the petitioner. It is averred that on 02.02.2010 the petitioner and his family members beat the 1st respondent without providing food and when she was as sleep, poured kerosene and tried to kill her by squeezing her neck. On that the 1st respondent escaped and reached her parents house along with 2nd respondent. The petitioner again filed O.P.No.4 of 2011 before the Senior Civil Judge, Mangalagiri, seeking divorce. Thereafter, the respondents 1 and 2 filed the maintenance case seeking monthly maintenance.

3) The petitioner filed counter admitting the marriage and birth of the 2nd respondent. However, he denied the receipt of dowry and presentations. It is further stated in the counter that the 1st respondent is arrogant, adamant, reckless and reluctant towards the petitioner and his parents. It is averred that she always used to

go to her parents house very frequently without the knowledge and consent of the petitioner. She used to abuse the parents of the petitioner in foul and filthy language and also used to beat them on each and every occasion by quarrelling with them. It is said that the first respondent herein never co-operated with the petitioner for sexual intercourse which caused mental torture to the petitioner. It is urged that the 1st respondent is an employee getting only an amount of Rs.7,500/- per month.

4) During the course of enquiry, the 1st respondent examined herself as PW.1 and got marked Exs.A1 to A12, where as the petitioner examined himself as RW.1 but no documents were marked on his behalf. After analyzing the oral and documentary evidence, the learned trial Judge granted monthly maintenance at Rs.1,000/- to the 1st respondent and Rs.2,000/- to the 2nd respondent herein. Not being satisfied with the quantum of maintenance, respondents 1 and 2 filed CrI.R.P.No.21 of 2014 before the Principal Sessions Judge, Guntur, seeking enhancement. By an order dated 26.09.2014 the learned Sessions Judge enhanced the maintenance from Rs.1,000/- to Rs.2,000/- to the 1st respondent and Rs.2,000/- to Rs.4,000/- to the 2nd respondent. Aggrieved by the same, the husband preferred the present Criminal Revision.

5) From the above, it is clear that the petitioner/ husband has not questioned the grant of maintenance to the wife and child as he has not preferred any revision against the order passed in M.C.

His revision is only directed against an order enhancing maintenance from Rs.1,000/- to Rs.2,000/- to the wife and from Rs.2,000/- to Rs.4,000/- to the child.

6) Therefore, the short question that falls for consideration is whether the quantum of maintenance awarded to the wife and child is on higher side.

7) At the time when the matter is taken up for hearing, learned counsel for the petitioner would submit that the petitioner is willing to pay the maintenance to the child as awarded by the appellate Court but his grievance is only with regard to quantum of maintenance awarded to the wife. He submits that in view of the admission made by the wife, who examined herself as PW.1, that she is earning Rs.15,000/- per month, awarding an amount of Rs.2,000/- appears to be on higher side. The same is disputed by the learned counsel appearing for the wife, contending that when the petitioner has not questioned the maintenance of Rs.1,000/- granted to the wife, awarding another sum of Rs.1,000/- more by the revisional Court may not matter much since the petitioner is working as Assistant Professor in VR Siddharatha College, Vijayawada and getting Rs.25,000/- towards salary. The findings of the trial Court show that the petitioner is also a NCC Officer in VR Sddardha College, Vijayawada and an amount of Rs.15,000/- was being transferred from Syndicate Bank Account to India Bulls Account every month, which clearly indicate the amount earned by him every month. However, no documents are filed before the

trial Court to show the monthly income of the husband. The finding of the trial Court is that there was an admission that the husband was earning Rs.25,000/- per month.

8) It is represented by the learned counsel appearing for the wife that the amount of Rs.4,000/- awarded to the child is on lower side since the fees paid to the institution and also the expenditure occurred for the maintenance of the child is on higher side. But in the absence of any revision filed by her seeking enhancement, this Court cannot enhance the quantum of maintenance from what has been allotted to the child.

9) In view of the representation made by the learned counsel for the petitioner that his client is ready to pay Rs.4,000/- to the child and having regard to the facts and circumstances, the amount of Rs.4,000/- awarded to the child is hereby confirmed.

10) Insofar as the quantum of maintenance awarded to the wife is concerned, PW.1 in her evidence admits that she is earning Rs.15,000/- per month. The finding of the trial Court with regard to granting Rs.1,000/- per month is not challenged by the husband. Therefore, the dispute is only with regard to the enhanced amount of Rs.1,000/-.

11) Having regard to the admission made by PW.1 that she is earning Rs.15,000/- per month by working as lecturer in Chemistry Department of Nova College and taking into consideration the place of her stay ie. at Mangalagiri, this Court is of the view that Rs.15,000/- earned by her and Rs.1,000/- granted by the trial

Court would meet the ends of justice. However, if the wife feels that the quantum of maintenance awarded to the child is not sufficient, she is at liberty to move an application before the trial Court seeking enhancement.

12) Accordingly, the Criminal Revision Case is allowed in part. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

19.09.2016
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