

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1869 OF 2012

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. challenging the order dated 31.07.2012 in M.C.No.106 of 2010 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 facts leading to filing of the present criminal revision case are briefly as follows:

The marriage of the first petitioner was performed with the respondent on 02.08.1998 at Sri Visanagar Samaj Hall, besides Central Bank, Bank Street, Koti, Hyderabad, as per Hindu Rites and Caste Custom. Immediately after the marriage, the first petitioner joined the respondent to lead happy marital life. Out of lawful wedlock, the first petitioner and the respondent were blessed with one daughter i.e., petitioner No.2. The respondent without any intimation to the first petitioner left the house and joined in a job at Bangalore. The respondent filed a divorce petition on the file of the Judge, Family Court, Hyderabad and the same was dismissed on 02.02.2010. The respondent is having landed property and getting salary of Rs.20,000/- per month in the year 2007 itself. The respondent filed counter admitting the relation between the parties *inter alia* contending that the first petitioner herself left the matrimonial home of the respondent; therefore she is not entitled to claim maintenance. It is the further case of the respondent that the first petitioner has been working as a Teacher and he has no source of income.

4. In the trial Court, the first petitioner examined herself as PW.1

and got marked Exs.P.1 to P.3. The respondent examined himself as RW.1 and got marked Ex.R.1.

5. Basing on the oral and documentary evidence available on record, the trial Court allowed the petition in part by granting maintenance of Rs.2,500/- per month to the second petitioner and dismissed the petition insofar as the first petitioner is concerned.

6. The only contention of the learned counsel for the respondent (husband) is that the respondent is not having any source of income. In such circumstances, granting of maintenance of Rs.2,500/- per month to the second petitioner is not justifiable.

7. Now the point that arises for consideration is:

Whether the second petitioner is entitled to claim maintenance from the respondent or not?

POINT:

8. Petitioner Nos.1 and 2 filed a petition claiming maintenance of Rs.10,000/- per month to the first petitioner and Rs.5,000/- per month to the second petitioner. The trial court dismissed the petition insofar as the first petitioner is concerned. The first petitioner did not choose to file any revision challenging the order of the trial Court dated 31.07.2012. The order passed by the trial Court is binding on the first petitioner in view of non-filing of the revision by her. The oral testimony of RW.1 coupled with Ex.R.1 clearly reveals that the first petitioner has been working as a Teacher in Bharatiya Vidya Bhavan, Sainikpuri and getting salary of Rs.14,546/-. Except the self-served testimony of PW.1, there is no other documentary evidence to prove that the respondent was getting salary of Rs.20,000/- per month. There is no material on record to establish that the respondent has been doing business and earning Rs.30,000/- per month. The fact remains that the respondent is having share in the landed property

situated at Nadimicherla of Chittoor District. The respondent put a suggestion to PW.1, that she is earning more than the respondent. By putting such suggestion, the respondent himself admitted that he is earning some thing. In the absence of documentary evidence, some guess work is inevitable to fix the quantum of maintenance. Basing on the material available on record, the trial Court arrived at a conclusion that that the respondent is having source of income. There is a moral and legal obligation on the part of the respondent to look after the welfare of his daughter under any circumstances. Simply because the first petitioner is working as a Teacher that itself automatically will not absolve the moral, legal and social obligations on the part of the respondent. The trial Court, after taking into consideration the socio-economic conditions of both parties, granted maintenance of Rs.2,500/- per month to the second petitioner. Now the second petitioner may be aged about 13 years. The amount of Rs.2,500/- per month may not be sufficient even to pay school fee to her. Viewed from any angle, I am unable to accede to the contention of the learned counsel for the respondent that granting of maintenance of Rs.2,500/- per month to the second petitioner is not justifiable. There is no illegality or irregularity in the order passed by the trial Court. The point is answered accordingly.

9. In the result, the Criminal Revision Case is dismissed at the stage of admission.

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

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T.SUNIL CHOWDARY, J

Date: 05.07.2016

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