

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

Criminal Revision Case No. 379 of 2010

Judgment:

This Criminal Revision Case is directed against the order, dated 27.05.2006, passed in CRP No.28 of 2006 by the learned VII Additional District Judge, Kakinada, East Godavari District, whereby and whereunder the learned Judge has modified the order, dated 05.01.2006, in MC No.27 of 2003 on the file of the learned IV Additional Judicial Magistrate of First Class, Kakinada, and reduced the monthly maintenance amount from Rs.2,000/- to Rs.500/-.

2. The facts, in brief, are that the marriage between the revision petitioner and the first respondent herein was solemnized on 07.06.1995 at Kakinada as per Hindu Rites and Custom. After the date of marriage, the revision petitioner joined the first respondent and from the beginning the first respondent and his family members used to harass the revision petitioner. Due to ill-treatment meted out to the revision petitioner, she came out from the house of the first respondent and started living with her parents. The case of the revision petitioner is that, though, the first respondent has got sufficient means to maintain her, but he is neglecting to maintain her, hence, she filed MC No.27 of 2003 for grant of maintenance at Rs.3,000/- per month.

3. The first respondent herein filed his counter denying the allegations of the revision petitioner and stating that, in spite of giving a notice, the revision petitioner did not join his company and that he is getting a meager salary of Rs.1500/- per month and the revision petitioner is having landed property and getting income there from, therefore, pleaded for dismissal of the maintenance case.

4. The learned Magistrate, on proper appreciation of the entire oral

and documentary evidence on record, allowed the maintenance case in part and the first respondent herein was directed to pay monthly maintenance of Rs.2,000/- to the revision petitioner herein from the date of order i.e., 05.01.2006. Aggrieved by the same, both the revision petitioner and the first respondent herein filed CRP Nos.13 of 2006 and 28 of 2006 respectively and the lower appellate Court, by a common order, dated 27.05.2006, dismissed CRP No.13 of 2006 filed by the revision petitioner and partly allowed CRP No.28 of 2006 filed by the first respondent herein reducing the quantum of monthly maintenance from Rs.2000/- to Rs.500/-. Aggrieved by the same, the revision petitioner filed the present revision case.

5. Heard Sri N. Siva Reddy, learned counsel for the revision petitioner, and Sri Karri Venkata Reddy, learned counsel for the first respondent, and perused the material on record.

6. The relationship between the parties is not in dispute. It is also a fact that the revision petitioner – wife is living separately from the first respondent – husband and the first respondent – husband also filed divorce OP which is said to have dismissed, against which appeal is pending. The revision petitioner – wife filed MC No.27 of 2003 claiming maintenance of Rs.3,000/- per month. It is her case that the first respondent – husband is working as a Lecturer and has sufficient income to pay the maintenance. By the order, dated 05.01.2006, the learned Magistrate awarded monthly maintenance of Rs.2,000/- to the revision petitioner herein from the date of order i.e., 05.01.2006. Aggrieved by that, the first respondent – husband as well as the revision petitioner – wife preferred revisions before the VII Additional District Judge, Kakinada, East Godavari District, and by the order, dated 27.05.2006, the learned Judge has reduced the maintenance amount from Rs.2000/- to Rs.500/- holding that there is no satisfactory evidence to show that the first respondent – husband has sufficient means to pay the said amount.

7. It is on record that the first respondent – husband is a post-graduate in Engineering and, at the relevant time, he was working as a Lecturer and, subsequently, he is stated to have removed from service. Be that as it may, so long as the relationship between the revision petitioner – wife and the first respondent – husband subsists, the first respondent – husband is bound to provide just and reasonable maintenance to the revision petitioner – wife and he cannot deny the same merely because he has no employment at present. Though, the learned Magistrate, on proper appreciation of the entire material on record, granted maintenance of Rs.2,000/- per month, but the lower appellate Court reduced the same to Rs.500/- per month. In the present day cost of living, granting a sum of Rs.500/- per month to a wife, aged about 40 years, is grossly inadequate and it amounts to granting a pittance to a wife. The learned Sessions Judge has not properly taken into consideration the above circumstances and erred in reducing the monthly maintenance granted by the learned Magistrate from Rs.2,000/- to Rs.500/-. Hence, the order of the learned Sessions Judge is liable to be set aside and the order passed by the learned Magistrate granting maintenance of Rs.2,000/- per month has to be confirmed.

8. Accordingly, the Criminal Revision Case is allowed in part and the first respondent – husband is directed to pay maintenance to the revision petitioner – wife at Rs.2,000/- per month from the date of the lower Court order i.e., from 05.01.2006.

9. As a sequel thereto, the miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 05.01.2016

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