

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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CRIMINAL REVISION CASE No.875 of 2016

ORDER:

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Heard.

The present revision is filed under Sections 397 read with 401 Cr.P.C. aggrieved by the order dated 31.03.2015 passed in F.C.M.C.No.13 of 2014 on the file of the Judge, Family Court-cum-III Additional District and Sessions Court, Vizianagaram, wherein and whereunder the trial Court granted monthly maintenance of Rs.3,000/- each to respondent Nos.1 and 2 herein.

The averments in the F.C.M.C. are as under:

The marriage of the petitioner with respondent No.1 took place on 03.12.2003. Both of them lived happily for a period of three years and out of wedlock they were blessed with a female child by name Thanusri, who is respondent No.2 herein. Subsequent to the birth of respondent No.2, there was a change in the conduct of the petitioner. The petitioner got addicted to bad vices like drinking alcohol, smoking and womanizing etc. and also developed illicit intimacy with one Uma, who is working as a teacher in Fort City School. It is also stated that the petitioner did not provide proper food and cloths to the respondents and finally necked her out. It is said that the petitioner neglected

to maintain them though he is working as a Sales Manager, Astroid Company Limited and earning Rs.30,000/- per month. Hence, respondent Nos.1 and 2 herein filed maintenance case seeking maintenance at Rs.5,000/- per month to each of them.

The petitioner herein filed his counter in the M.C. admitting the relationship with respondent Nos.1 and 2. He denied the allegation that he was addicted to bad vices and having illicit intimacy with Uma. He further stated that respondent No.1 always chats with her brother-in-law on phone and the said person frequently visits the house of the petitioner due to which differences arose between both of them. Except that there is no other reason for straining the relationship between them. He further stated that he never deserted respondent Nos.1 and 2 and he is ready and willing to take back them. He further submits that he is getting only Rs.11,000/- per month and out of the same he has to pay an EMI of Rs.7,752/-.

In support of their case, respondent Nos.1 and 2 examined PWs.1 and 2 and got marked Exs.A1 to A3. The petitioner got himself examined as RW.1 and marked Exs.R1 to R5.

After considering the evidence adduced and rival submissions made, the trial Court allowed the M.C. and granted maintenance at Rs.3,000/- per month to each of the respondent Nos.1 and 2 herein from the date of petition.

Challenging the same, the husband preferred the present revision.

Though various grounds are raised, learned counsel for the petitioner restricts his prayer stating that the quantum of maintenance awarded by the trial Court is on higher side. He further submits that the petitioner is a heart patient and as such it is difficult for him to pay such huge amount as maintenance. He further submits that the finding of the trial Court that the petitioner is having three houses and Ac.2.00 cents of land at Srikakulam is incorrect.

Learned counsel for respondent Nos.1 and 2 submits that the quantum of maintenance awarded by the trial Court is reasonable since the petitioner is working as Sales Manager in Astroid Company Limited and earning Rs.30,000/- per month. It is further submitted that the petitioner has sufficient immovable properties.

A perusal of the evidence on record would show that the petitioner admitted that he is working as a Medical Representative and he also admitted that due to his profession he has close acquaintance with the doctors.

Coming to the quantum of maintenance, it is to be noted that respondent Nos.1 and 2 herein filed number of documents to show the expenditure incurred towards education of respondent No.2 herein. The material placed before the Court would show that the petitioner was getting Rs.16,000/- per month as admitted by him. He also

admitted that he is having three houses at Srikakulam and Ac.2.00 cents of land at Kallapalli Village. Considering the fact that the petitioner is having sufficient income and the legal duty cast upon him to maintain respondent Nos.1 and 2, this Court is of the view that the quantum of maintenance awarded by the trial Court cannot be said to be on higher side. Hence, taking into consideration the evidence of PWs.1 and 2 and RW.1 coupled with the documents and also considering the financial status of the petitioner, the order under challenge warrants no interference.

Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

22.03.2016

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