

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1466 of 2016

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. aggrieved by the order dated 29.02.2016 passed in F.C.M.C.No.3 of 2014 on the file of the Judge, Family Court, Kurnool, wherein the trial Court awarded maintenance of Rs.4,000/- per month to each of respondent Nos.1 and 2 herein.

The facts in issue are as under:

Respondent Nos.1 and 2 herein being minors represented by their mother filed F.C.M.C.No.3 of 2014 seeking maintenance of Rs.5,000/- per month to each of them. The averments in the petition would disclose that the marriage of the petitioner with the mother of respondent Nos.1 and 2 took place on 27.02.2000 as per the Islamic Rights and Customs. After marriage the petitioner went to Saudi Arabia in connection with his job wherein he was working as Store Keeper since 1989. On 09.08.2013 ie. on the day of Ramzan Festival the mother and sister of the petitioner are alleged to have demanded the mother of respondent Nos.1 and 2 to bring Rs.2.00 lakhs additional dowry apart from beating her with hands and legs. It was also alleged that they threatened to perform the marriage of the petitioner again if she fails to fulfil their demand. The averments in the petition also discloses that on 28.08.2013 the wife of the petitioner lodged a report before the Women Police Station, Kurnool which came to be registered as Crime No.64 of 2013 for the offences punishable under Section 498-A IPC and Section 4 of the Dowry Prohibition Act, 1961. It is the case of the respondents that the petitioner was getting Rs.1,00,000/- per month till he came to India and recently he started earning Rs.50,000/- per month in real estate. It is said that the

petitioner has number of residential plots in and around Kurnool Town. Having regard to the circumstances stated above and respondent Nos.1 and 2, who are children of the petitioner, have no source of income of their own, filed M.C. claiming maintenance.

Counter came to be filed by the petitioner opposing the same. He denied the averments made in the petition stating that for the first time he went to Saudi Arabia in the year 2000 only. While denying the averments in the petition it is stated that the petitioner used to send Rs.8,000/- to Rs.10,000/- per month to the SB Account of his wife, but suppressing the said fact allegations are made which are vague and incorrect. It is his case that his wife is not responding to his calls though he tried to talk to her. The mother of respondent Nos.1 and 2 is a Government Teacher and earning Rs.26,500/- per month. It is also stated that he is ready to take back his wife and children.

During the course of trial, the wife of the petitioner examined as PW.1 and one Abdul Haq was examined as PW.2 she also got marked Exs.A1 to A11. The petitioner himself examined as RW.1 and got marked Exs.B1 to B8. After considering the rival submissions, the trial Court awarded maintenance @ Rs.4,000/- per month to each of respondent Nos.1 and 2. Challenging the same the present revision is filed.

As seen from the evidence available on record there is no dispute with regard to the marriage of the petitioner with the mother of respondent Nos.1 and 2 and paternity of the petitioner. The only dispute in the present revision is with regard to quantum of maintenance awarded to respondent Nos.1 and 2. Admittedly respondent Nos.1 and 2 are minors, having no source of income of their own. The only argument which was advanced by the learned counsel for the petitioner is that since the mother of respondent Nos.1 and 2 is working as Government Teacher and getting Rs.27,000/- per month, the quantum of maintenance awarded is on higher side. There

is no dispute with regard to the fact that mother of respondent Nos.1 and 2 is working as teacher and getting an amount of Rs.27,000/- per month which in all probability likely to increase more but at the same time it is to be noted that the said amount by itself may not be sufficient for the education of her two children and also for the maintenance of herself and her two children. Ex.A9 which is placed before the trial Court to show that an amount of Rs.20,000/- has been spent for the dental treatment of respondent No.1 and Ex.A10 shows that an amount of Rs.4,500/- was paid towards school fees of respondent No.2. It is to be noted that maintenance should also be of such nature as to make to live a decent one, more so when their mother is working as Government Teacher and father is doing real estate business.

The question as to whether the monthly maintenance of Rs.4,000/- each awarded by the trial Court is just and reasonable and whether the petitioner can afford to pay that much of the amount.

The evidence on record clearly established that the petitioner was working in Saudi Arabia from 2000 to 2013. When PW.1 in her evidence stated that the petitioner is earning Rs.50,000/- per month no suggestion was given disputing the same. Apart from that the material on record show that the petitioner was sending an amount of Rs.8,000/- to Rs.10,000/- per month till the birth of respondent No.1 and Rs.20,000/- directly to PW.1, who is the mother of respondent Nos.1 and 2 which is proved by Ex.B6. Therefore, it cannot be said that the petitioner has no source of income. The person, who is earning so much of money in Dubai would not have come to India without having a work fetching morethan or atleast equivalent to what he was earning in Dubai. Taking into consideration the age of respondent Nos.1 and 2, the cost of education and day today expenses in present days, I am of the opinion that an amount of Rs.4,000/- per month awarded to each of respondent Nos.1 and 2 cannot be said to be on higher side. Hence, I see no reasons to

interfere with the order under challenge.

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

C.PRAVEEN KUMAR,J

05.08.2016
gkv