

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.150 OF 2009

ORDER:

This Criminal Revision Case is filed, under Sections 397 and 401 of the Code of Criminal Procedure, challenging the order dated 04.04.2008, in M.C.No.191 of 2004 on the file of the Family Court – cum-IV Additional District and Sessions Court, Vijayawada.

2. The parties will be referred to as they are arrayed before the trial Court to avoid confusion.

3. Learned counsel for the respondent (petitioner herein), strenuously submitted that the finding of the trial Court that the petitioner (respondent herein) was forced to leave the matrimonial house is not sustainable on facts. He further submitted that the trial Court failed to consider that the respondent has been looking after the welfare of the children and the amount of maintenance granted by the trial Court is on higher side.

4. *Per Contra*, learned counsel for the petitioner (respondent herein) submitted that the finding of the trial Court that the petitioner was forced to leave the matrimonial house is supported by oral and documentary evidence. She further submitted that there are no grounds much less valid grounds to interfere with the well considered order of the trial Court.

5. The questions that arise for consideration, in this revision, are as follows:

- (i) Whether the amount of maintenance granted by the trial Court is on higher side? and
- (ii) Whether there is any illegality, irregularity or impropriety in the order of the trial Court which warrants interference of this Court?

6. Both points are interlinked with each other; hence, this Court is inclined to address both the points simultaneously in order to avoid recapitulation of facts and evidence.

7. To substantiate the case before the trial Court, the petitioner examined herself as PW.1 and got examined her mother as PW.2. To demolish the case of the petitioner, the 1st respondent examined himself as RW.1 and also got examined RWs.2 and 3 to prove the conduct of the petitioner. No documents were marked on both sides.

8. The material available on record discloses that the marriage of the petitioner was performed with the respondent on 02.05.1997 as per the Hindu rites and caste customs. Immediately after the marriage, petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with two male children. It is not in dispute that both the petitioner and the respondent belong to the same village.

9. It is the case of the petitioner that the respondent demanded additional dowry from her parents. It is further case of the petitioner that the respondent and his family members subjected her to cruelty, and having no other alternative, she left the matrimonial home. It is the case of the respondent that the petitioner left the matrimonial home without justifiable cause, which act of the petitioner debars her to claim maintenance under Section 125 of Cr.P.C.

10. A perusal of the record reveals that the village elders conducted a panchayat to resolve the disputes between the parties. For one reason or other, bad weather prevailed in the family life of the petitioner and the respondent, which forced the petitioner to leave the matrimonial house.

11. It is not uncommon to make allegations and counter allegations against each other, by the parties to the proceedings, more particularly in matrimonial cases, in order to gain the sympathy of the Court. After considering the oral evidence available on record, the trial Court made an observation that the petitioner was forced to leave her matrimonial home due to the behaviour of the respondent. The finding recorded by the trial Court is supported by the oral evidence. The testimony of RWs.2 and 3 also reveals the factum of the disputes between the petitioner and the respondent. The material placed before the Court clinchingly establishes that the petitioner left the matrimonial house due to the

behaviour of the respondent. I am fully agreeing with the findings recorded by the court below. Having regard to the facts and circumstances of the case, I am unable to accede to the contention of the learned counsel for the respondent that the petitioner herself voluntarily left the matrimonial home and thereby she is not entitled to claim maintenance under Section 125 Cr.P.C.

12. The next question that falls for consideration is whether the amount of maintenance awarded by the Court below is on higher side ?

13. As per the testimony of RW.1, he is earning Rs.100/- per day. The trial Court made an observation that the children are staying with the respondent. The trial Court also made an observation that the petitioner may earn Rs.30/- per day subject to availability of the coolie work. There is a social and moral obligation on the part of the respondent to provide a reasonable amount towards maintenance of the petitioner. At the same time, the Court shall not lose sight of the fact that the respondent has been looking after the welfare of the children. An amount of Rs.500/- is hardly sufficient for sustenance of an individual. In view of the prevailing price index, Rs.500/- per month is not on higher side. The trial court has rightly considered the financial status of both the parties and granted maintenance of Rs.500/- per month to the petitioner.

14. Viewed from any angle, I am unable to accede to the contention of the learned counsel for the respondent that the

amount of Rs.500/- per month towards maintenance granted by the Court below is on higher side. There is no irregularity or illegality in the order of the trial Court, which warrants interference of this Court while exercising the jurisdiction under Section 397 Cr.P.C.

15. Accordingly, the Criminal Revision Case is dismissed. Consequently Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE T.SUNIL CHOWDARY

Date:10.08.2017
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