

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**C.R.P.No.6507 OF 2016 AND C.R.P.No.80 OF 2017**

**COMMON ORDER:**

These civil revision petitions are filed under Article 227 of the Constitution of India, challenging the common order in I.A.Nos.6 & 7 of 2016 in O.P.No.1063 of 2014 dated 04.10.2016, passed by the Judge, Family Court at L.B. Nagar, Ranga Reddy District, allowing the petitions to pay Rs.35,700/- per month towards the previous educational expenses of the minor child and Rs.10,000/- per month towards the maintenance of the minor child. Aggrieved the said common order, the petitioner/husband filed the present civil revision petitions.

Admittedly, the petitioner/husband is working as a Software Employee in M/s Wipro Technologies, earning Rs.60,000/- by the date of filing the petitions. But, the only contention of the petitioner is that, he underwent Angioplasty surgery and produced documentary evidence in support of it. But, denying maintenance to minor daughter on the pretext of undergoing Angioplasty surgery is not a ground, as the petitioner is the father of the minor child is under a legal obligation to provide maintenance to the child during her minority and that too, I.A.Nos.6 & 7 of 2016 are filed under Sections 24 and 25 of the Hindu Marriage Act, which is an interim arrangement.

In **Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy**<sup>1</sup>, the Apex Court while following the judgment of Apex

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<sup>1</sup> 2017 (5) SCALE 5

Court in **Dr. Kulbhushan Kumar v. Raj Kumari and another**<sup>2</sup>, where it was held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the wife. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the capacity of the spouse to pay maintenance. Maintenance is always dependant on the factual situation of the case and the Court would be justified in moulding the claim for maintenance passed on various factors. In the facts of the case in **Dr. Kulbhushan Kumar**<sup>2</sup> case, the husband was earning a net salary of Rs.95,000/- per month, the High Court was justified in enhancing the maintenance amount. However, since the appellant has also got married second time and has a child from the second marriage, in the interest of justice, the Apex Court reduced the amount of maintenance of Rs.23,000/- to Rs.20,000/- per month as maintenance to the respondent-wife and son.

Therefore, by applying the principle laid down in the above judgment, granting maintenance of Rs.10,000/- is in accordance with law. Therefore, I find no ground to set-aside the common order in I.A.Nos.6 & 7 of 2016 in O.P.No.1063 of 2014 dated 04.10.2016 and hence, both the civil revision petitions are dismissed.

In the result, both the civil revision petitions are dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

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**JUSTICE M. SATYANARAYANA MURTHY**

Date:03.07.2017

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<sup>2</sup> (1970) 3 SCC 129