

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE Nos.3285 and 3152 of 2016

COMMON ORDER :

These two revisions are outcome of the order dated 26.08.2016 of the learned Judge, Family Court-cum-IV Additional District and Sessions Judge, Adilabad, in F.C.O.P.No.19 of 2014.

2. The claim covered by the impugned order of the lower Court was for maintenance by wife and minor child of two years age, by the year 2014, in the wedlock with O.P. respondent/ husband, at Rs.20,000/- for wife and Rs.10,000/- for minor child sought for. Under the impugned order, the learned Judge, awarded maintenance of Rs.6,000/- to the wife and Rs.4,000/- to the minor child from the date of order passed on 26.08.2016. It is impugning the said order of the quantum excessive, the husband maintained CrI.RC.No.3285 of 2016 and the wife for her and for minor child filed CrI.RC.No.3152 of 2016.

3. Heard both sides from the rival claims and perused the material on record including the impugned detailed order running in 37 pages with reference to Exs.P1, X1, X2 and R1 to R10.

4. From the oral evidence of wife as PW.1 and Dr.B.Ravinder Reddy (PW2) show that the claim of husband as RW1 of he is doing PG is on lien by the Government, without loss of salary, that is also deposed by PW.2 to establish the same and RW.2 one I.Narsaiah. The lower Court having scanned the evidence, negated the contention of there is refusal or neglect by the wife and thereby not entitled to maintenance. From that conclusion, for this Court, while sitting in revision, practically, there is nothing to interfere with the finding of minor child and wife are entitled to the maintenance from the husband.

5. Now only the issue covered by the two revisions there from is whether quantum of Rs.10,000/-, that too, from the date of order passed on 26.08.2016 is unsustainable or not.

6. As can be seen from the counter contest of the husband, the wife is a B.SC. graduate and even since prior to marriage, she was running a ladies emporium under the name and style of 'Laxmi Srinivasa Ladies Emporium' at Adilabad. From the evidence on record, in PW.1's chief examination and cross examination she denied the same of running a shop. There is no any R.C.license even to substantiate the same. He is undisputedly doing P.G. after his M.B.B.S and he is in Government service. Ex.X1-service

certificate and Ex.X2-salary certificate particulars of October, 2015 shows his gross salary Rs.59,441/- and net salary is Rs.52,270/-. PW.2 deposed that the gross salary approximately by the time of evidence of PW.2 is Rs.70,000/- p.m. in addition to it he is entitled to P.G. allowance at Rs.2,000/- p.m. So his gross salary can be considered as Rs.72,000/- p.m. as on the date of passing of order atleast. Once such is the case, even taken from her qualification and running to get little income from any ladies emporium, what Rs.6,000/- p.m. awarded to the wife no way requires to reduce, but for, instead from date of order to grant from date of petition of the year 2014, as after the amendment in the year 2001 to Section 125 Cr.P.C., maintenance to award from date of petition no way requires reasons in view of the provision made for interim maintenance, when same not granted to adjust. So far as child concerned also Rs.4,000/- p.m. no way requires enhancement, but for from date of petition.

7. Having regard to the above, the order requires to be modified instead from the date of order to trace back to the date of petition, by granting six months time to pay all arrears in six equal monthly installments in addition to the regular maintenance from the date of receipt of copy of this

order, failing which the lower Court can enforce and recover.

8. Accordingly, the CrI.R.C.No.3152 of 2016 is partly allowed and CrI.R.C.No.3285 of 2016 is dismissed.

9. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:24-03-2017
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE Nos.3285 and 3152 of 2016

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