

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

**CRIMINAL REVISION CASE No.1386 of 2005**

**ORDER:**

This revision under Section 397 and 401 of Code of Criminal Procedure (fort short "Cr.P.C.") is filed questioning the legality and correctness of the order dated 10.06.2005 passed by the III Additional Sessions Judge, Kurnool at Nandyal in Crl.R.P.No.25 of 2004 modifying the maintenance from Rs.750/- to Rs.500/- per month. Originally maintenance of Rs.750/- per month was granted by Judicial Magistrate of First Class, Banaganapalle in M.C.No.1 of 2003.

For the sake of convenience, the parties to the revision will be referred hereinafter throughout the Order as arrayed before the trial Court in M.C.No.1 of 2003.

Petitioner filed a petition under Section 125 of Cr.P.C. to grant maintenance of Rs.2,500/- per month alleging that the respondent is her son working in R.T.C. Depot, Banaganapalle and the petitioner lived happily up to the death of her husband and after the death of her husband, she was ill-treated mercilessly and her son refused and neglected to maintain her. The petitioner has no means from any independent source to lead normal life, which the respondent is leading and whereas her son/respondent is working in R.T.C. Depot and getting Rs.4,500/- per month towards salary and prayed to award maintenance at Rs.2,500/- per month.

The respondent filed counter denying the allegations made in the petition while admitting the relationship between the petitioner and respondent and denied the alleged ill-treatment. It is specifically contended that the respondent is facing heavy financial crisis even to maintain his family consisting of himself, sick wife and two children. He admitted that he is working as a mechanic in R.T.C. Depot and the salary which he is getting is not sufficient to maintain his family. It is also contended that the petitioner is running a fancy bunk at Banaganapalle and getting Rs.2,000/- per month and she is also having a house at Yagantipalle village bearing No.1/126 and getting rent of Rs.150/- per month and she is in possession of Ac.2.00 of land at Gajulapalle and getting Rs.30,000/- per annum. The petitioner is also having a house site of 0.04 cents at Banaganapalle worth Rs.40,000/-, thereby the respondent is not liable to pay maintenance to the petitioner.

During enquiry before the trial Court, the petitioner was examined as P.W.1 and no documents were marked on her behalf. Respondent was examined as R.W.1 and Exs.D.1 to D.8 were marked.

Upon considering the material available on record, the trial Court found that the respondent refused and neglected to main the petitioner, who has no means and independent source of income to lead ordinarily life and awarded maintenance at Rs.750/- per month.

In the revision, the III Additional Sessions Judge, Kurnool at Nandyal while accepting the findings that the respondent neglected and refused to maintain his mother reduced the maintenance from Rs.750/- to Rs.500/- per month on the ground that the respondent is getting salary of Rs.4,600/- per month and with the said amount he has to maintain his wife and two children apart from his mother - petitioner.

The present revision is filed challenging the said order on various grounds mainly contending that the reason recorded by the revisional Court in reducing maintenance from Rs.750/- to Rs.500/- is not convincing and Rs.500/- per month is not sufficient to maintain herself and to meet the expenses for food, clothing and medical etc. and prayed to restore the order of the trial Court.

Learned counsel for the petitioner would contend during arguments that even Rs.750/- per month is not sufficient to lead ordinary life on par with the respondent and requested to pass appropriate order.

As the trial Court and appellate Court recorded concurrent findings that the respondent refused and neglected to maintain his widowed mother and he is working as mechanic in R.T.C. Depot, such findings need no interference as the respondent did not challenge the said findings of both the Courts.

The only question before this Court is the quantum of maintenance. The respondent was receiving Rs.4,600/- per month by the date of passing order under challenge and with the income, he is receiving, he has to maintain his wife and children. When Rs.4,600/- per month is not sufficient, according to the respondent, to maintain 4 members, Rs.500/- per month would be hardly sufficient to maintain the petitioner herself as awarded by the revisional Court.

The petitioner having lost her husband requires shelter, clothing and medical aid at her old age and Rs.500/- is not sufficient to meet those expenses and on the other hand, she is expected to lead same standard of life which the respondent is leading. The respondent contended that the petitioner possessed sufficient properties and produced Ex.D.5 registration extract of document and Ex.D.8 adangal copy, even if the same are taken into consideration Rs.500/- per month is minimum and insufficient to meet necessary expenses for livelihood of the mother. Therefore, reasoning recorded by the appellate Court for reducing maintenance from Rs.750/- to Rs.500/- per month is not sound reasoning and not based on any material. Hence, the order of the appellate Court for reducing maintenance from Rs.750/- to Rs.500/- per month is set aside while restoring order passed by the Judicial Magistrate of First Class, Banaganapalle awarding maintenance at Rs.750/- per month.

In the result, the revision is allowed setting aside the order passed by the III Additional Sessions Judge, Kurnool at Nandyal in Crl.R.P.No.25 of 2004 reducing the maintenance from Rs.750/- to Rs.500/- per month while restoring order passed by the Judicial Magistrate of First Class, Banaganapalle awarding maintenance at Rs.750/- per month.

The miscellaneous petitions pending, if any, shall also stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

03.08.2017  
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