

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 9948 of 2011

ORDER:

This criminal petition is filed against the order dated 20.07.2011 passed in Criminal Revision Petition No.25 of 2010 by the V Additional Sessions Judge (III Fast Tract Court), Nalgonda, at Miryalguda (for short, 'the revisional Court'). The revisional Court, by the impugned order, has confirmed the order dated 18.02.2010 passed in M.C.No.42 of 2008 by the Judicial Magistrate of First Class, Miryalaguda (for short, 'the trial Court').

2. Brief facts of the case are as follows:

The marriage of 1st respondent (wife) with the petitioner (husband) was solemnized about ten years back, and they led marital life together at Hill Colony, Nagarjuna Sagar. They were blessed with a daughter who is the 2nd respondent. The petitioner started harassing and beating the 1st respondent indiscriminately and demanded her to bring money from her maternal uncle, as her parents died, and one day he beat her indiscriminately and went away. In view of frequent quarrels between the petitioner and the 1st respondent, the owner of the house told the 1st respondent to vacate the house, and therefore she vacated and started staying at her relatives house at Haliya. The petitioner several times called the 1st respondent on telephone and abused her and also threatened her. Unable to bear the harassment, the 1st respondent filed a complaint against the petitioner in P.S. Alwal,

which was registered as Crime No.101 of 2008 for the offences punishable under Sections 495, 498-A and 506 IPC. As the respondents were left alone to fend for themselves by the petitioner, the 1st respondent who is not in a position to maintain herself and her daughter filed a maintenance case in M.C.No.42 of 2008 before the trial Court praying to grant maintenance of Rs.3,000/- per month to each of the respondents, stating that the petitioner is a civil contractor and earning Rs.50,000/- per month. The trial Court granted maintenance of Rs.2,000/- per month each to the respondents 1 and 2 and directed the petitioner to deposit the maintenance amount every month into the savings account of the 1st respondent, and also to pay arrears of maintenance in twelve equal monthly instalments.

The petitioner's challenge to the order of the trial Court before the revisional Court in Criminal Revision Petition No.25 of 2010 ended in dismissal by order dated 20.07.2011. Aggrieved by the same, the present criminal petition is filed by the respondent-husband.

3. Heard the arguments of learned counsel for the petitioner.
4. Learned counsel for the petitioner submits that the 1st respondent was adamant in her behaviour and she left the house taking away cash and gold articles and that she deserted him without any reasonable cause, and therefore, the petitioner is not liable to pay any maintenance to respondents 1 and 2. It is further submitted that the revisional Court has not considered the evidence on record properly and came to the conclusion basing only on the proposition

that a husband has to maintain his wife irrespective of his income and therefore the said finding is liable to be set aside.

5. It is pertinent to note that the revisional Court, at paragraph 8 of the impugned order, observed as under:

“8. On a consideration of the rival contentions and material as available on record that the respondent is doing contract work and earning sufficient income to maintain himself and so also the petitioners, his wife and daughter. But the respondent did not do so even though having sufficient means to provide maintenance to the petitioners. The evidence of PW-1 further disclosed that the respondent harassed the petitioner No.1 and ill-treated them and did not provide separate maintenance to even though he is having sufficient means to provide maintenance. Therefore, the evidence on record proved that the respondent is having sufficient means to provide maintenance to the petitioners. It is well settled principle of law that the respondent being husband and father of petitioners, is bound to maintain the petitioners irrespective of his income, in case of willful default. Basing on that principle, the trial Court after considering the material available on record has granted an amount of Rs.2,000=00 per month to the petitioner, which is just and reasonable and the order of the trial Court needs no interference.

6. A perusal of the order passed by the revisional Court would show that the revisional Court has considered all the aspects in proper perspective and confirmed the judgment of the trial Court. Therefore, there are no valid grounds to interfere with the findings of both the Courts in this regard. Therefore, the criminal petition is devoid of merit and is liable to be dismissed.

7. **IN THE RESULT**, the criminal petition is dismissed. No costs. Miscellaneous petitions, if any pending, shall also stand dismissed.

GUDISEVA SHYAM PRASAD, J

05th October, 2017
KSM



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