

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1800 of 2016

ORDER:

The revision petitioner, who is the husband of revision 1st respondent and father of revision respondent Nos.2 and 3, filed the revision impugning the order dated 27.05.2016 in M.C.No.210 of 2015 passed by the learned Additional Family Court Judge, Hyderabad, awarding maintenance of Rs.10,000/- to the 1st petitioner and Rs.5,000/- each to the petitioner Nos.2 and 3 from the date of petition i.e., on 15.04.2015 besides Rs.1,000/- towards costs of petition by further directing to provide education fee, transportation, clothing and nutrition to the petitioner Nos.2 and 3 other than above maintenance amount awarded.

2. The contentions in the grounds of revision vis-à-vis oral submissions of the learned counsel for the revision petitioner/M.C. respondent are that the learned Family Court Judge erred in awarding said amounts with direction to meet the further expenditure supra despite the income of the revision petitioner from all sources not exceeding Rs.37,250/- out of which two EMIs at Rs.12,000/- each for home loans and also Rs.3,500/- for insurance premium besides obligation to provide Rs.4,000/- to his parents and the awarding of Rs.25,000/- towards maintenance and to meet other expenditure to the children is per se unsustainable and erroneous and learned Judge also failed to consider that respondent Nos.1 to 3 (wife and 2 children) are residing in the house of the petitioner, who is staying in the room in the ground floor by providing 1st floor to the respondents that could have been taken into consideration and he is also to pay to

the servant maid every month out of his earnings for nothing remained to meet and the 1st respondent got skill to earn from her high qualification up to Rs.20,000/- per month and financially sound that was also ignored, hence to set aside the order granting maintenance.

3. Whereas it is the submission of the learned counsel for the respondents that the order impugned no way requires interference for this Court while sitting in revision since well considered and supported by reasons with opportunity of recording evidence and its appreciation having fresh in mind of facts from oral and documentary evidence on record, hence to dismiss the revision.

4. Heard and perused the material on record.

5. So far as wife's qualification is concerned even not in dispute, there is nothing to show she is earning or doing any avocation out of her qualification and the lower Court in fact considered this with reference to the expression of the Apex Court in **Sunitha Kachwaha Vs. Anil Kachwaha**¹ of mere possessing post graduation qualification by wife is not sufficient to say that she got earnings for what is pleaded by the husband of she got job as a teacher and working could not be proved and in the event of not showing she got earnings, there is no justification to reject the claim for maintenance. Even regarding other sufficient means alleged there is no proof filed much less not possess from the evidence on record so to establish as also observed by the lower Court. Undisputedly as held by the Apex Court in **Shamima**

¹ AIR 2015 SC 554

Farooqui Vs. Shahid Khan², the maintenance to be provided to the wife and children by the husband is befitting to his status which should be reasonable and not for bare survival when he got sufficient means to lead comfortable life, he has to provide equal in status to them.

6. From this what is the qualification of the wife is shown only a graduate and there is no proof of earnings or avocation of her. Regarding his means out of Exs.P1 to P10, Exs.P.1 and P.2 reveal the house property he purchased in the year 2010 from K.L. Naidu and constructed with permission ground + first floor in which himself with separate mess and wife and 2 children with separate mess are residing and the consideration passed under Exs.P1 and P2 is more than Rs.10,00,000/-. He is a post graduate having the qualification of MA and MBA, he himself says he is meeting the education fees for the academics of the 2 children including from his say from Ex.R3 fee receipts and Ex.R5 family health insurance premium payment. He further deposed that he is consultant in TV-5 since 2008, paying Rs.4,000/- to the servant maid per month besides paying school fee to the children and his father having his own means and not dependant on him and he is getting Rs.20,000/- from TV-5, rental income Rs.15,000/- and Rs.4,500/- from Andhra Jyothi and he was owing car up to past 4 months from his evidence. Once these facts established and the wife has no avocation and the children are studying, even taken what he is getting from the house property by rent can be equated to the discharge of loan installments. What is admittedly getting Rs.24,500/- monthly salary out of which once he got obligation to

² AIR 2015 SC 2025

maintain wife and 2 educating children what the Tribunal awarded of Rs.10,000/- to the wife and Rs.5,000/- to the children requires to modify to Rs.5,000/- each to the wife and 2 children with further liberty of his meeting the educational expenses of the children.

7. Accordingly and in the result, the criminal revision case is allowed in part modifying the maintenance from Rs.10,000/- to the wife and Rs.5,000/- each to the children to Rs.5,000/- each to the wife and 2 children from the date of petition and time granted of 4 months to pay arrears in 4 monthly installment by adjusting the maintenance so far paid and deposited if any.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 27.01.2017
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