

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1355 of 2008

ORDER:

1 This Criminal Revision Case is filed under Section 397 and 401 Cr.P.C. challenging the order dated 21.07.2008 passed in M.C.No.41 of 2008 on the file of Judge, Family Court, Prakasam at Ongole, wherein and whereby the petition filed by the respondent Nos.2 to 4 herein under Section 125 Cr.P.C was partly allowed awarding maintenance of Rs.1,500/- p.m each to the respondent Nos.3 and 4 herein and dismissing the petition in so far as respondent No.2 herein is concerned.

2 For the sake of convenience, parties to the present revision will hereinafter be referred to as they are arrayed before the trial Court.

3 The learned counsel for the respondent strenuously submitted that the trial Court, without taking into consideration the financial capacity of the respondent, granted monthly maintenance of Rs.1,500/- each to the petitioner Nos.2 and 3. He further submitted that the trial Court while dismissing the claim of the first petitioner, ought to have dismissed the petition in so far as the petitioner Nos.2 and 3 also. He further submitted that the trial Court failed to consider that the first petitioner has source of income to maintain the petitioner Nos.2 and 3. He further submitted that the trial Court failed to consider that there is a social obligation on the part of the respondent to provide maintenance to his parents.

4 ***Per contra***, the learned counsel for the petitioner Nos.2 and 3 submitted that the trial Court rightly considered the financial capacity of both parties and awarded maintenance of Rs.1,500/- each to the

petitioner Nos.2 and 3. He further submitted that an amount of Rs.1,500/- p.m. is hardly sufficient for maintenance of petitioner Nos.2 and 3. He further submitted that there are no grounds much less valid grounds to interfere with the well considered order passed by the trial Court, in exercise of revisional jurisdiction by this Court under Section 397 Cr.P.C.

5 Now the point that arises for determination in this Criminal Revision Case are:

1. Whether the maintenance awarded to the petitioner Nos.2 and 3 is on higher side?
2. Whether there is any illegality or irregularity in the order passed by the trial Court which warrants interference of this Court?

6 Both point Nos.1 and 2 are intertwined with each other and hence I am inclined to address these two points simultaneously in order to avoid recapitulation of facts and evidence.

7 Before the trial Court, to substantiate the case, the first petitioner examined herself as P.W.1. P.W.2 was examined to prove the case of the petitioners. To demolish the case of the petitioners, the respondent examined himself as R.W.1. No documentary evidence was adduced on behalf of both parties.

8 The facts in brief that lead to the filing of the present Criminal Revision Case are as follows:

9 First petitioner is the legally wedded wife of the respondent. Out of their lawful wedlock the first petitioner and the respondent were blessed with two sons i.e. petitioner Nos.2 and 3. For one reason or the other, bad weather prevailed in the family life of the first petitioner and the respondent. The petitioners filed a petition under

Section 125 Cr.P.C. seeking maintenance of Rs.6,000/- p.m. to the first petitioner and Rs.3,000/- each p.m. to the petitioner Nos.2 and 3. The respondent filed counter admitting the factum of relationship, inter alia, contending that the first petitioner herself deserted the respondent and hence she is not entitled to claim maintenance. It is the further case of the respondent that the first petitioner is having landed property at Mumdlamuru village, therefore, she is not entitled to maintenance.

10 Basing on the oral, documentary evidence and other material available on record, by order dated 21.07.2008, the trial Court allowed the petition partly by granting maintenance of Rs.1,500/- p.m. each to petitioner Nos.2 and 3 while dismissing the petition in so far as the first petitioner is concerned.. Feeling aggrieved by the said order of the trial Court, the respondent filed the present Revision Case.

11 For one reason or the other, the first petitioner did not chose to challenge the orders of the trial Court to the extent of dismissal of her claim. The findings recorded by the trial Court, so far as the first petitioner is concerned, became final. The respondent filed the present Revision Case contending mainly that the amount of maintenance awarded to the petitioner Nos.2 and 3 at the rate of Rs.1,500/- p.m. is on higher side.

12 At the time of filing of the petition, petitioner Nos.2 and 3 were aged about 12 and 10 years respectively. It is an admitted fact that the respondent is a MBA graduate. For one reason or the other, disputes arose between the petitioners and the respondent due to which they have been living separately.

13 A perusal of the record clearly reveals that the father of the respondent is a retired Engineer, getting pension. Therefore, the father of the respondent is not dependent on the respondent. However, the petitioners failed to prove that the respondent has been working in Mahindra & Mahindra Company. The fact remains that the petitioners have been residing in the house of the father of the respondent. The trial Court made an observation that the respondent intentionally and willfully suppressed his income to avoid payment of maintenance to the petitioners. There is social and moral obligation on the part of the respondent to provide maintenance to the petitioner Nos.2 and 3 who are his children. A perusal of the record clearly reveals that the parties herein belong to above middle class and are highly educated persons. Taking into consideration the financial capacity of both parties, the trial Court granted maintenance at the rate of Rs.1,500/- p.m. each to the petitioner Nos.2 and 3. It may not be possible for the first petitioner to provide decent life to the petitioner Nos.2 and 3 without the help and assistance of the respondent. An amount of Rs.1,500/- p.m. is hardly sufficient for sustenance of an individual, even taking into consideration the prevailing index in the year 2008. The petitioner Nos.2 and 3 are legitimately entitled to lead decent life in view of the socio economic conditions of their father and grandfather.

14 The trial Court, taking into consideration the socio economic conditions of the respondent, has granted maintenance at the rate of Rs.1,500/- p.m. each to the petitioner Nos.2 and 3. Viewed from any angle, I am unable to accede to the contention of learned counsel for the respondent that the amount of maintenance granted by the trial

Court is on higher side. The trial Court has assigned cogent and valid reasons to its findings. I am fully endorsing the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the orders passed by the trial Court, which warrant interference of this Court in exercise of revisional jurisdiction under Section 397 Cr.P.C.

15 For the foregoing discussion, this Criminal Revision Case is devoid of merit and is accordingly dismissed. As a sequel, miscellaneous petitions if any pending in this Criminal Revision Case shall stand closed.

Date: 03.08.2017
Kvsn

T.SUNIL CHOWDARY, J

