

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Review CrI.R.C. M.P. No.3093 of 2015

IN/AND

Criminal Revision Case No.1401 of 2015

COMMON ORDER:

The revision petitioner—husband maintained the revision impugning the order dated 09.06.2015 passed in M.C. No.98 of 2012 by the Judge, Family Court, Ranga Reddy District at L.B Nagar in awarding maintenance of Rs.15,000/- p.m. to the wife as prayed for, from the date of maintenance petition, besides Rs.5,000/- towards costs of the petition with a direction to the petitioner herein to pay said amount by 5th of every month.

2) It is after recording the evidence of PW.1 with reference to Ex.P1—marriage certificate issued by A.P.State Wakf Board and RW.1 Mohd. Pasha (husband), having filed his chief examination, failed to face cross examination despite given opportunity, thereby treated with no value mostly worded as 'eschewed', with the contentions of the grounds of revision that the lower Court failed to consider the interim maintenance originally awarded at Rs.5,000/- per month, the fact that the petitioner lost his employment and awarding of Rs.15,000/- per month as prayed for is with no basis and the revision respondent (M.C petitioner) not produced any proof regarding his means despite the said contention, thereby and also for no reasonable opportunity afforded in closing the cross examination by Advocate Commissioner in treating as nil, instead of affording opportunity for no proceedings ex parte practically, hence to set aside the impugned order passed by the lower Court by allowing the revision restoring the M.C. No.98 of 2012 to enable him to contest by participation by adducing evidence.

3) So far as the review petition No.3093 of 2015 against the interim order of maintenance dated 01.09.2015 pending revision is concerned, he filed an application for interim suspension in Crl.R.C. M.P. No.2212 of 2015 wherein pending service of notice, another Bench of this Court granted interim stay and ordered to pay Rs.5,000/- per month and pay all arrears within three months therefrom. It is impugning the same as excessive, review is filed.

4) The contentions of the learned counsel for the revision petitioner in the grounds of review are that earlier the petitioner was doing job at abroad earning Rs.60,000/- per month and he lost the same long back in 2012 and after being terminated from his job facing the case filed by his wife and whatever he earned, spent for her and he is penniless and unemployed and he is not in a position to pay Rs.5,000/- p.m. pursuant to the interim stay, hence to reduce.

5) Heard learned counsel for the review petitioner. Even notice served to the respondent in both the matters, in one matter returned as 'unclaimed' and in another matter 'served' since held sufficient, hence taken as heard. Perused the material on record

6) Despite review sought against the interim maintenance of Rs.5,000/- p.m. is concerned, there is no basis to review apart from the fact that the respondent/ husband before the lower Court, who is the revision petitioner, having filed his chief affidavit, failed to proceed with the examination and for no oath against oath from the evidence of his wife showing that he was earning as an employee of the National Bank of Abu Dhabi, more than Rs.60,000/- p.m, and thus there is justification in awarding Rs.15,000/- per month. What he claimed of that he lost the job, he has to prove the same.

7) Having regard to the above, by setting aside the impugned maintenance order in awarding Rs.15,000/- p.m. on 09.06.2015, which is subject matter of the main revision, the M.C No.98 of 2012 is remitted to file of learned Judge, Family Court, by also restoring the RW.1's evidence in chief, to record cross examination by fixing a single date by the Court, unless otherwise considers to adjourn further and after completion of hearing, decide on merits. In the meantime, the revision petitioner shall pay Rs.5,000/- p.m. and all the arrears within one month from the date of receipt of this order, failing which the respondent—wife can execute and recover. The appellate court is directed to give early disposal of the matter pursuant to the review order supra.

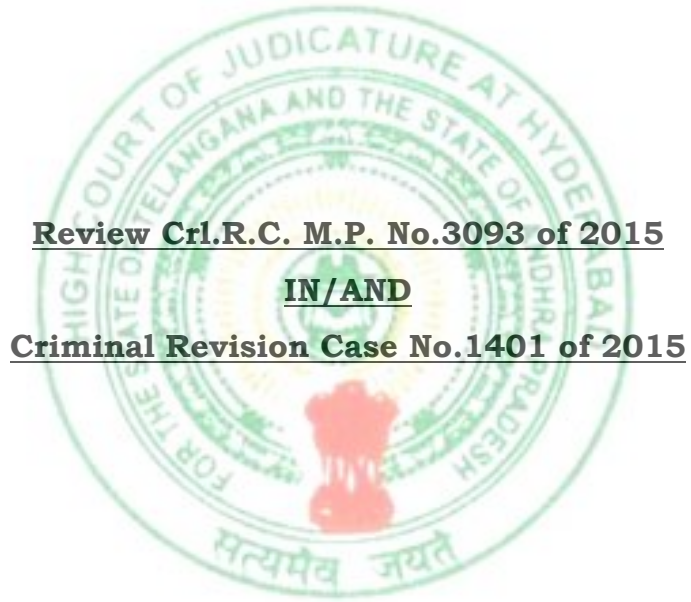
8) Accordingly and in the result, the Revision is allowed in part and review Crl.R.C.M.P. No.3093 of 2015 is dismissed in toto.

9) Consequently, pending miscellaneous petitions, if any, shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:25.01.2017
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THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO



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Dt.25.01.2017

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