

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2590 of 2017

ORDER:-

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973 ('Cr.P.C.', for brevity), is filed by the petitioner-husband, challenging the Order, dated 06.06.2017, passed in CrI.M.P.No.49 of 2016 in F.C.M.C.No.22 of 2016 by the Judge, Family Court – cum – Additional District Judge, Anantapuramu, awarding interim maintenance of Rs.7,500/- in favour of the respondent-wife and directing the petitioner-husband to pay the same on or before 5th day of every succeeding month till the disposal of the case.

2. The respondent-wife filed a petition under Section 125 of Cr.P.C., before the Court below claiming maintenance at the rate of Rs.15,000/- per month. During the pendency of the petition, she filed an application under Section 125(2) of Cr.P.C., claiming interim maintenance at the same rate, alleging that her marriage with the petitioner-husband was performed on 08.05.2014, the petitioner-husband refused and neglected to maintain her, and she has no means to maintain herself, whereas, the petitioner-husband is an employee of Indian Oil Corporation and has sufficient earning capacity. She also contended that she is highly qualified and due to certain disturbances, she is unable to attend to any work and she has no source of income. The petitioner-husband filed counter admitting the marriage between the parties, while contending that his application for restitution of conjugal rights in HMOP No.150 of 2015 is pending on the file of the Additional

Senior Civil Judge, Anantapuramu, and that the respondent-wife is working as a teacher in a private school and she is well settled in life.

3. During the course of enquiry, no witnesses were examined and no documents were marked by both the parties.

4. Upon hearing the arguments of both the learned counsel, the trial Court awarded interim maintenance of Rs.7,500/- per month to the respondent-wife, after recording the submission made by the counsel for the petitioner-husband before the trial Court accepting to pay Rs.5,000/- per month towards interim maintenance to the respondent-wife, but the respondent-wife did not accept the said proposal.

5. The main contention of the learned counsel for the petitioner-husband before this Court is that the petitioner-husband was not afforded any opportunity to file any documents to prove his income and that the petitioner-husband and the respondent-wife entered into a Memorandum of Understanding, dated 06.01.2017, whereby, the respondent-wife is precluded from claiming any maintenance in future, having received an amount of Rs.3,00,000/- towards full and final settlement of maintenance claim, but the said document was not considered by the trial Court while passing the impugned order.

6. Undisputedly, the marriage between the petitioner-husband and the respondent-wife was performed and they are living separately. It is evident from the allegations made in the maintenance case that a case in Crime No.99 of 2016 was

registered against the petitioner-husband by Raidurg Police, for the offences punishable under Sections 498-A, 506 of IPC and Sections 3 & 4 of the Dowry Prohibition Act, since the respondent-wife was subjected to cruelty by her in-laws for her failure to meet the illegal demand for payment of additional dowry. Therefore, there is justification for her to live separately. In fact, it is not the case of the petitioner-husband that the respondent-wife voluntarily deserted the matrimonial home without any justifiable or reasonable cause to disentitle her from claiming maintenance under Section 125 of Cr.P.C. But the only contention raised before the Court below is that the respondent-wife is working as a teacher in a private school and she is well settled and able to maintain herself. But this contention is not supported by any iota of evidence and in the absence of any material to substantiate the contention that the respondent-wife is working as a teacher in a private school, it is difficult for this Court to accept that the respondent-wife is able to maintain herself.

7. In paragraph 8 of the impugned order, the Court below recorded the submission of the learned counsel for the petitioner-husband that the petitioner-husband accepted to pay Rs.5,000/- to the respondent-wife towards interim maintenance. Since the respondent-wife did not accept the said proposal, the Court below granted interim maintenance of Rs.7,500/- per month by taking into consideration the standard of living, price index and the interest of wife, as she is expected to maintain the same standard of life which she lead while staying with the petitioner-husband.

Therefore, the Court below rightly awarded maintenance of Rs.7,500/- per month.

8. The counsel for the petitioner-husband contended that the memorandum of understanding, dated 06.01.2017, entered by the petitioner-husband and the respondent-wife was not taken into consideration by the Court below while passing the impugned order. In fact, it is the duty of the counsel for the petitioner-husband to mark the said Memorandum of Understanding as a document before the Court below. In the absence of marking of the said Memorandum of Understanding as an exhibit before the Court below, the Court is not required to consider the same while passing the impugned award. Therefore, non consideration of the said Memorandum of Understanding is not a ground to reverse the findings in the impugned order, moreover, the enforceability of such memorandum of understanding is doubtful in view of the law declared by the Apex Court.

9. Hence, I do not find any grounds to interfere with the impugned order passed by the Court below. The Criminal Revision Case is de void of merit and is liable to be dismissed.

10. In the result, the Criminal Revision Case is dismissed at the stage of admission.

11. At this juncture, the learned counsel for the petitioner-husband requested this Court to issue a direction to the Court below to decide the matter as expeditiously as possible. Acceding to the request of the learned counsel, the Judge, Family Court – cum – Additional District Judge, Anantapuramu, is directed to

decide the main maintenance case in F.C.M.C.No.22 of 2016 as expeditiously as possible, and in any event not later than three (03) months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

M. Satyanarayana Murthy, J

11th October, 2017
Bvv

