

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1791 of 2016

ORDER:

This revision is preferred by the MC respondent-husband against the order dated 22.04.2016 in CrI.M.P.No.984 of 2016 in M.C.No.245 of 2015 filed by the MC petitioner-wife passed by the learned Additional Family Court Judge-cum-Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case, Hyderabad, granting interim maintenance of Rs.7,500/- per month to the revision respondent-wife from the date of petition till disposal of main Maintenance Case after hearing both sides.

The grounds in the revision vis-à-vis oral submissions are that the order of the learned Sessions Judge is contrary to law, weight of evidence and without properly considering the counter filed by him and outcome of non-application of judicial mind to the facts and law, that the learned Sessions Judge ought not to have granted interim maintenance as she neglected the petitioner and never shown any affection towards him and his children, that that the lower Court erred in granting interim maintenance without considering his meager salary of Rs.2,500/- p.m. working as office boy and she is also capable of maintain herself as she is tailor by profession and also doing kacha work and earning Rs.5,000/- to 8,000/- per month.

Whereas, it is the submission of the learned counsel for the respondent-wife that the order of the lower Court holds good and

no way requires interference while sitting in revision and thereby sought for dismissal of the revision.

Heard learned counsel for the revision petitioner. The revision 2nd respondent even served failed to attend, hence taken as heard and perused the material on record.

A perusal of the averments in the M.C. before the lower Court are that the marriage of the couple was performed as per Muslim Personal law on 05.11.2012, leave about other averments regarding the giving of dowry or jewellery, jahez articles and other household items including furniture, kitchen ware and electric article and ghoda joda amount. It is her averment that right from the day of her joining the husband at the instance of inmates with sarcastic comments and abused and she was subjected to ill-treatment also to meet additional dowry. According to her, her husband is running business in vegetable market with 2 lorries besides owning a shop and she was even subjected to physical abuse and to prepare the food with country fire by securing from outside and including by fetch water from outside and her husband's brother in law Tajammul Hussain is quack and practices black magic even entered into her bedroom without even knocking the doors. At his instance, the petitioner's husband taken away her jewellery and pledged and she was ultimately necked out by her husband, sister and brother-in-law and the family members and efforts through elders for reconciliation including in May and July 2015 became futile. She is a house wife on the mercy of her parents and younger brothers for her survival and her husband is earning Rs.50,000/- per

month from owing a shop in L.B. Nagar vegetable market with 2 lorries, hence entitled to maintenance of Rs.20,000/- per month and sought for interim maintenance at such rate. The counter filed by him is but for admitting the relationship between the parties in denying all the above averments with a claim that he is only working as a office boy and earning Rs.2,500/- per month and he has to maintain his aged parents and she is earning as a tailor more than Rs.5,000/- per month and she is not entitled to any maintenance from her husband. It is from these pleadings, the interim maintenance order was passed without any detailed discussion by the Court below which is subject matter of the revision.

From the above facts to say that she is a tailor and earning including by doing any kacha work and not mere a household woman, there is no material equally for the wife to say he is not a mere employee by earning Rs.2,500/- per month, but own a shop in vegetable market with 2 lorries and getting income of Rs.50,000/- per month, there are no particulars of registration of the lorries owned by him so also the door numbers and particulars of the shop if at all. However, the fact remains that he is otherwise able bodied and duty bound to maintain his wife, who is unable to maintain herself. It is hardly believable of he is working as office boy and earning Rs.2,500/- per month for the reason of even a day coolie can earn more than 4 times above to it per month.

Having regard to the above, though Rs.7,500/- per month is excessive, it is just to reduce to Rs.5,000/- per month towards interim maintenance.

Accordingly and in the result, the criminal revision case is partly allowed by reducing the interim maintenance from Rs.7,500/- per month to Rs.5,000/- per month by left open what is being entitled in final disposal of MC on merits, to adjust ultimately from any payment out of the interim maintenance at reduced rate of Rs.5,000/- per month from the date of petition. Time of two months from today granted to pay all arrears.

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

Date: 20.04.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

