

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1581 OF 2016

ORDER:

Impugning the order dated 30.03.2016 passed in M.C. No.12 of 2014 by the learned Judge, Family Court-cum-V Additional District Judge, Tirupathi, against the revision petitioner/ husband awarding maintenance of Rs.10,000/- p.m. to the wife and Rs.2,500/- p.m. each to the two minor children, the husband maintained the revision.

2) The contentions in the grounds of revision vis-à-vis oral submissions made by the learned counsel for the revision petitioner are that Ex.B11—salary certificate showing the revision petitioner is working in Srinidhi Silk Kendra, Bangalore for salary of Rs.8,000/- p.m. from 01.01.2014 and he has no means to pay such a huge claim of maintenance and sustained several losses in jewellery business did earlier by borrowing money from his brother-in-law and the lower Court ignored all these aspects in awarding such a huge amount, thereby it requires to be reduced reasonably and as he was already shown paying Rs.4,000/- p.m. towards their maintenance, it is just to reduce accordingly.

3) Whereas, it is the submission of the learned counsel for M.C petitioners/ respondents to the revision that the order of the lower Court holds good and for this Court while sitting in revision, there is nothing to interfere as it is a detailed order after scanning the factual matrix and prayed to dismiss the revision.

4) Heard both sides and perused the material on record.

5) Though it is not depicted as to the property possessed by the father of revision petitioner, whether it is ancestral or his self-acquired property, what it reflects from Ex.A11—1-B namuna is the landed property

standing in the name of his father and brought on evidence that there are two houses bearing Nos.154 and 155, Bazar Street, Tirupathi, and in one house, he is residing and in another house, he did jewellery business even from his admissions. What he claimed is that he borrowed Rs.30,00,000/- from his brother-in-law for the business and incurred several losses but he did not file any accounts or proof. It is important to note that his chief examination shows he is resident of Madanapalli town and claimed that he is residing with his co-brother, whereas in his cross examination, he deposed that he is residing at Hosur for the past two years and prior to that, he was residing at H.Nos.154, Bazar Street, Tirupati, but the salary certificate shows as if he is working in Bangalore since January, 2014.

6) As rightly concluded by the lower Court to say he is having capacity to do business and earlier did jewellery business and got means so also through his father got house at Tirupati, thereby awarding Rs.15,000/- p.m. towards maintenance to wife and children is reasonable. However, so far as the contention of the wife that he got medical shop in the same street in the name of Padmavathi Medicals and getting about Rs.1,00,000/- income from the shop is concerned, there is no proof besides whether the property standing in his name or in his father's name but for he is a business man and got capacity for doing business and bound to maintain the wife and children.

7) Having regard to the above, instead of Rs.10,000/- p.m. to wife and Rs.2,500/- p.m. to each children, it requires to be modified to Rs.4,500/- p.m. each to wife and two children from the date of filing of M.C.

8) Accordingly, the revision is allowed in part by modifying the order to the extent indicated above and in addition to that the arrears, if any pursuant to the interim maintenance earlier granted by the lower Court is to be paid in five equal installments within a period of five months from the date of receipt of a copy of this order, besides continuing to pay regular maintenance.

9) As a sequel, miscellaneous petitions if any pending shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.02.2017
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