

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.590 OF 2007

JUDGMENT:

The revision petitioner - husband, questioning the award of Rs.3,000/- each to respondent Nos.1 and 2 towards their monthly maintenance passed by the learned Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast case - cum - Additional Family Court, Hyderabad on 13.03.2007 in M.C. No.266 of 2005, filed the present Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code').

2. Heard Mrs. Manjiri S Ganu, learned counsel for the revision petitioner - husband, and Sri B. Nalin Kumar, learned counsel for respondent Nos.1 and 2.

3. Respondent Nos.1 and 2 herein, who are wife and son of the revision petitioner, filed an application under Section 125 of the Code requesting to grant Rs.4,000/- to each of them towards monthly maintenance on the ground that the revision petitioner was drawing a monthly salary of Rs.25,000/- and has got sufficient means to pay maintenance amounts claimed by them.

4. Before the Judge, Family Court, both the petitioners therein examined themselves as PWs.1 and 2 and marked Exs.P-1 to P-3 to substantiate their case, whereas, the revision petitioner examined himself as RW.1, but no documents were filed by him.

5. The learned Judge, Family Court formulated the following three points:

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1. Whether the petitioners are entitled to maintenance from the Respondent?
2. If so, to what amount?
3. To what relief? ”

6. On point No.1, on evaluation of evidence of PWs.1 and 2 and the evidence of RW.1, holding that RW.1 also deposed that whenever he was transferred as he is working in Central Government Department from Madras to Mizoram, then to Hyderabad, where they purchased a flat at Mehdipatnam, and stayed in that house, went to Nalgonda, and again back to Hyderabad, she accompanied him and they lived together, drawn an inference that respondent No.1 herein never refused and deserted him at her own accord and, thus, this circumstance, according to the learned Judge, Family Court, belies the ground set out by the revision petitioner that she voluntarily left his company. This finding recorded by the Family Court is based on proper appreciation of evidence and does not warrant any interference.

i) On point No.2 as to what would be the amount that may be awarded towards monthly maintenance to respondent Nos.1 and 2 herein, the learned Judge, Family Court deliberated on the salary drawn by the revision petitioner showing that he was drawing Rs.22,000/- towards his gross salary and then observed that even deducting his statutory deductions, he would be earning not less than

Rs.18,000/- per month towards net salary and discarded the ground raised by the revision petitioner that he was paying Rs.5,000/- towards HRA on the ground that he was getting that amount from the department, arrived at the view, that awarding an amount of Rs.3,000/- to each of respondent Nos.1 and 2 herein towards their monthly maintenance would meet the ends of justice and, accordingly, recording the finding on point No.2, allowed the maintenance case in part by his order, dated 13.03.2007.

7. Though, various grounds have been agitated in the present revision case, but at the outset, it is to be said that in the absence of any further documentary evidence to show that respondent Nos.1 and 2, who are wife and son, are being paid any amount either in the divorce OP he filed or any amount being tendered by him towards their living, certainly, when kept in view, that the salary he was drawing during those days was more than Rs.22,000/-, the amount of Rs.3,000/- awarded by the learned Judge, Family Court towards maintenance of each of respondent Nos.1 and 2 herein, by any stretch of imagination, cannot be construed as beyond proportion or excessive or exorbitant. Therefore, there is no merit in the present Criminal Revision Case.

8. Accordingly, the Criminal Revision Case is dismissed confirming the order, dated 13.03.2007, in M.C. No.266 of 2005, passed by the learned Judge, Family Court.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the criminal revision case, stand closed.

A. SHANKAR NARAYANA, J

November 09, 2017.
Mgr

