

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.948 of 2017

ORDER :

Aggrieved by the order dated 02.02.2017 in M.C.No.190 of 2011 passed by the Judge, Family Court, L.B.Nagar, Ranga Reddy District, this revision is filed by the petitioner/ husband.

The 1st respondent herein is no other than legally wedded wife of the revision petitioner, maintained M.C.No.190 of 2011 claiming maintenance of Rs.50,000/- p.m. from the date of petition. During pendency of M.C. under contest, wife maintained D.V.C.No.13 of 2012 before the VIII Metropolitan Magistrate, Cyberabad at Rajendranagar, which was allowed on 09.10.2015 granting Rs.25,000/- p.m. which includes interim maintenance of Rs.20,000/- p.m. during pendency of M.C. Even, the order of D.V.C. is not filed in the said M.C. showing the said amount was awarded, which is required to be considered, but for, oral contest if any.

It is the submission of the learned counsel for the petitioner that against the said order of D.V.C. appeal is pending before the Sessions Court.

In fact, from the very provisions of the Protection of Women from Domestic Violence Act (for short 'the Act'), any maintenance awarded to be taken care of, in fixing the amount. Here, though the M.C. is earlier in point of time, disposed of subsequent to disposal of D.V.C. supra, even then in M.C. that amount is required to be taken into consideration.

It is the further submission that the wife as per Ex.R2 filed in M.C. is drawing a salary between Rs.25,000/- p.m. to Rs.39,000/- p.m. and the bank account filed by the husband establishes the same. No doubt, the same is not reflected, from perusal of the order in D.V.C. However, once it is filed in M.C., it is also required to be taken into consideration.

Having regard to the above, this Criminal Revision Case is allowed and the order dated 02.02.2017 in M.C.No.190 of 2011 passed by the Judge, Family Court, L.B.Nagar, Ranga Reddy District, is set aside and the M.C. is remanded back to the Court concerned, for fresh decision after hearing both parties by permitting further evidence including as to changed circumstances as on the date also with reference to the order in D.V.C.No.13 of 2012. As appeal against D.V.C. is stated pending before the Metropolitan Sessions Judge, L.B.Nagar, by virtue of this order, the learned Metropolitan

Sessions Judge, shall transfer the case to the Judge, Family Court, since it is of the equal cadre to decide both matters, by virtue of this order by common disposal, under Section 407 Cr.P.C.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:27-04-2017
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