

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2347 of 2017

ORDER:

This criminal revision case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') questioning the propriety, legality and correctness of the order, dated 01.06.2017, passed by the Judge, Family Court, Secunderabad, in M.P.No.234 of 2016 in M.C.No.77 of 2016, whereby the Court below granted interim maintenance of Rs.10,000/- to respondent No.1 and Rs.5,000/- to respondent No.2 herein towards maintenance.

2. Respondent Nos.1 and 2 herein filed M.C.No.77 of 2016 under Section 125 Cr.P.C. for grant of maintenance alleging that the marriage between the petitioner and respondent No.1 was performed on 12.12.2013 at Raja Rajeswari Garden, Secunderabad, and they were blessed with a male child, who is respondent No.2 herein, on 03.02.2016 during their wedlock. Thereafter, the petitioner herein started harassing respondent No.1 for her failure to meet the illegal demand of dowry and used to break articles and beat respondent No.1 in black and blue for money during intoxicated state. Due to intervention of neighbours, she was rescued. The father of petitioner herein is a widower, used to tease respondent No.1 at all possible times in the absence of petitioner and she was subjected to cruelty for her failure to meet the illegal demand and the petitioner herein was

totally refused and neglected to maintain both respondent Nos.1 and 2 herein. Hence, she claimed maintenance under Section 125 Cr.P.C.

3. Respondent Nos.1 and 2 herein also filed M.P.No.234 of 2016 for grant of interim maintenance on the same grounds and whereas the petitioner herein filed counter, denying the material allegations *inter alia* contending that the petitioner herein is jobless and alleged that respondent Nos.1 and 2 have not hand over the demand list of gold and silver jewellery and other costly electronic and other house hold articles and that the petitioner has obtained loan for purchase of car from SBI, Banjara Hills branch, Hyderabad, on monthly EMI of Rs.16,000/- for a period of 48 months and the same is cleared now and there is evidence with the petitioner and that allegations made by respondent Nos.1 and 2 are baseless and respondent No.1 did not bring 39 tulas of gold and 5 kgs. of silver. The petitioner herein used to save his entire salary for clearing of car loan, personal loan and house rent including maintenance, LIC policy, other mutual funds in the name of respondent No.2. The petitioner got issued a legal notice to respondent No.1 herein for restitution of conjugal rights. Instead of joining, she issued evasive reply and also mentioned in her reply that she does not want to continue with the petitioner herein and there is no justification for granting interim maintenance to respondent Nos.1 and 2 herein and prayed for dismissal.

4. Heard both sides.

5. The present revision is filed only on the ground that the petitioner was terminated from the service on 19.04.2017 due to his failure to perform his duties to the satisfaction of his employer and now he was not drawing any amount of salary and he became unemployed. The letter of termination was not marked as exhibit before the Court below for different reasons. The main contention of the respondent Nos.1 and 2 before this Court is that the petitioner is earning more than Rs.80,000/- per month as software professional. Whereas, the petitioner herein disputed the said fact while contending that he was drawing a monthly salary of Rs.77,088/- previously and marked Ex.P.1-Linekedin profile and it would disclose that the petitioner was in search of the job and further Form 16 discloses that the petitioner is an income tax assessee and is paying Rs.48,000/- towards income tax per year. Ex.P.1 is only information generated from the computer website and it discloses that the petitioner searching a job. Even if the petitioner is terminated on 19.04.2017, his earning capacity was Rs.77,088/- per month by the date of filing of the petition. Merely because, the petitioner was terminated from service or resigned to his service, the earning capacity of the petitioner herein cannot be ignored. The petitioner is employed anywhere subsequent to the alleged termination, if true, his earning capacity is more than Rs.77,000/- per month. Therefore, granting interim maintenance at Rs.15,000/- to respondent Nos.1 and 2 cannot be faulted since the petitioner is able body person, in getting employed

for sometime if accepting the contention of the petitioner herein was able to earn Rs.77,088/-

6. Therefore, the finding the Court below awarding maintenance at Rs.10,000/- to respondent No.1 and Rs.5,000/- to respondent No.2 is just and reasonable. However, it is only an interim measure during pendency of the maintenance case. Therefore, the order does not call for interference of this Court, while exercising the power under Sections 397 and 401 Cr.P.C. in view of the limited jurisdiction that conferred on this Court. Consequently, the revision is liable to be dismissed.

7. In the result, the criminal revision case is dismissed while directing the Judge, Family Court, Secunderabad, to decide the maintenance case i.e., M.C.No.77 of 2016 as expeditiously as possible, in any event not later than six months from the date of receipt of copy of the order.

Miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

23rd October 2017.

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