

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY THE FIFTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVENTEEN

P R E S E N T
HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE PETITION NO. 2399 OF 2017

Between:

Nadikota Siva Subramanyam ... Petitioner

V/s.

Nadikota Kanakaratnam & Anr. ... Respondents

Counsel for the Petitioner: Sri M.Venkatram Reddy

Counsel for the Respondents: Public Prosecutor

The court made the following: [order follows]

HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE NO. 2399 OF 2017

ORDER :

This Criminal Petition is filed by the petitioner under section 397 and 401 of Cr.P.C., questioning the propriety and legality of the order passed by the Judge, Family Court-cum-IV-Additional District and Sessions Judge, Vijayawada, Krishna district, in M.C.No. 189 of 2012, dated 22/6/2017 granting maintenance @ Rs.8000/- per month from the date of the petition.

2. The petitioner is the son and the respondent who filed the petition against the petitioner under section 125 Cr.P.C. for grant of maintenance @ Rs.10,000/- alleging that the respondent herein is the mother of the petitioner and her husband died long ago while working in Bank and after death of her husband, the petitioner was appointed on compassionate ground in the Bank in view of no objection reported by the respondent and other legal heirs of the deceased and since then

the petitioner herein neglected and refused to maintain the respondent. The petitioner is working as cashier in the Bank and getting salary of Rs.40,000/- per month. The respondent is a old woman, aged about 60 years, suffering from Neuro problem and undergoing treatment under Dr.Varjarala Siva Kumar, Vijayawada, who requires not less than Rs.10,000/- per month for food, clothing and medical expenses and therefore, she sought maintenance against the petitioner, who is the son of the respondent herein. When the maintenance case was disposed by the trial court, the matter was carried in revision, vide CrI.RC.No. 682 of 2015 with a separate petition to condone the delay in CrI.RCMP.No.1131 of 2015. But this Court under the facts and circumstances, permitting the petitioner to prosecute the proceedings on payment of entire arrears @ Rs.8,000/-per month within a period of ten weeks from the date of order i.e., from 28/4/2015. Accordingly, the MC.No.189 of 2012 was restored to file on 28/5/2015 but the petitioner paid only Rs.48,000/- as arrears in CrI.MP.No.698 of 2014. The

petition for enforcement of orders of maintenance and for realization of amount of Rs.48,000/- from 07/9/2014 to 06/2/2015 was also pending and the balance amount was not paid till date. However, the petitioner remained ex-parte again before the court below and did not file his counter and adduce any evidence in support of his contention if any raised. The petitioner failed to make the payment of Rs.38,000/- vide orders in CrI.MP.No.334 of 2015 and remained exparte.

3. During enquiry, the respondent herself filed an affidavit in support of her evidence and examined as PW-1 and marked Exs.P-1 and P2 despite her assertion made before the Court that she requires Rs.10,000/- and that the petitioner refused and neglected the respondent though receiving salary not less than Rs.40,000/- per month did not adduce any evidence to rebut the testimony of PW-1 and therefore, the trial court after considering the facts and circumstances directed the petitioner to pay maintenance of Rs.8,000/- from 07/2/2015. Aggrieved by the impugned order, the present criminal revision is filed

before this Court in a second round of litigation raising several contentions mainly on the ground that he was only appointed on compassionate ground initially as Class-IV employee and now working as Cashier in the Bank and he also contended that the respondent owned and possessed property worth Rupees Five lakhs, which was given towards paspu kumkuma by her parents on her marriage and that the wife of the petitioner is suffering from breast carcinoma since the year 2011 and the petitioner has to take care and welfare of his family members including his wife and she was openly insulted by the respondent, and therefore, he is under obligation to pay the maintenance to the respondent herein.

4. During hearing, the learned counsel for the petitioner passed on several documents including the letters addressed by the respondent to the bank, school fee receipts, pay slips etc., which are not marked before the Court below.

5. There is no dispute with regard to the relationship between the petitioner and respondent. But the contention of the

respondent before the court below was that she is not having any means to maintain herself after the death of her husband and consequent upon the petitioner's compassionate appointment in the bank. It is also contended by the respondent that her other son is also working in the bank. The respondent filed the petition against this petitioner obviously for different reasons but the respondent-mother may proceed against any one of the son, who refused to maintain and neglect to maintain and merely not filing a petition against the other son does not debar the respondent from claiming the maintenance from this petitioner, who is son and he was appointed on compassionate ground in the bank. The respondent was examined as PW-1 and initially exparte order was passed but later an application was filed by this petitioner and the same was dismissed. But in the Revision before this Court in CrI.RC.No. 682 of 2015 along with the application to condone the delay in CrI.RCMP.No. 1131 of 2015 was filed and it was allowed subject to payment of arrears of maintenance @ Rs.8,0000/- per month within a period of ten

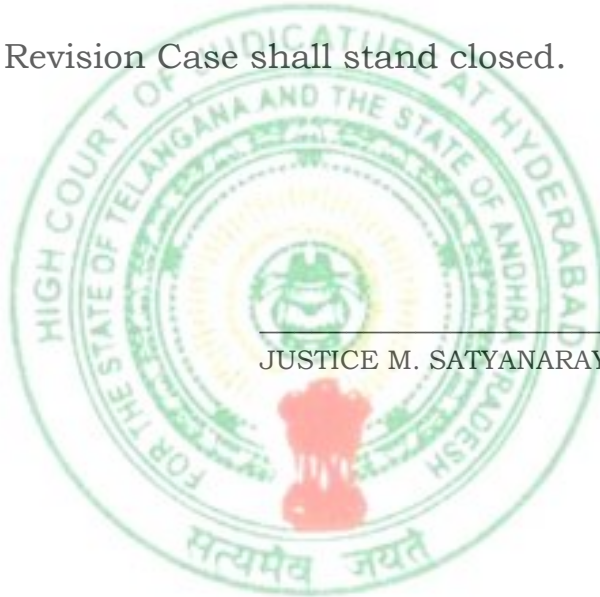
weeks from the date of order. But the petitioner paid only Rs.38,000/- as arrears in CrI.MP.No.698 of 2014 and the petitioner is due to pay an amount of Rs.38,000/-. The petitioner did not file his counter before the court below and did not contest the matter and again remained ex-parte and filed the present revision against the ex-parte order passed by the court below. When the petitioner is aware about the consequences in view of the prayer in CrI.MP.No. 334 of 2015 he did not choose to contest the matter for one reason or the other and again approached this Court. But the only contention before this Court that he has to take care of his family and wife, who is a cancer patient. The petitioner produced salary slip for the months of 01/1/2016 to 05/8/2017 and statement of account but this would not suffice to believe his contention that he is drawing minimum amount and on the other hand it is the calculation of maintenance payable to the respondent Nadikota Kanaka Ratnam, would show that there is a balance of Rs.993-31 ps., as on 01/6/2017 which is inclusive of the

amount credited by the petitioner towards maintenance. But that would not disentitle her to claim maintenance. The petitioner, who is working in the bank contended that he did not possess any means much less sufficient means to maintain the respondent. He produced his salary slip to establish that his income which he is receiving and his liabilities to maintain his children etc. But obviously for different reasons he did not file any counter and he did not adduce any evidence in support of his contention. Even assuming for a moment that the respondent got sufficient means to maintain herself and in the absence of any pleadings and evidence in support of his contention, the court below has no other option except to believe the testimony of PW-1 basing on material available on record. Accordingly the court below passed the impugned order which does not suffer from any legal infirmity and in view of the limited jurisdiction conferred under section 395 and 401 of Cr.P.C., this court will not interfere with the orders of the court below unless the petitioner is able to satisfy this court that there is manifest

perversity or apparent in the order passed by the court blow. No such perversity or error is brought to the notice of this Court by the petitioner during hearing.

6. Therefore, I find no ground and this criminal revision is devoid of any merit and the revision is dismissed at the admission stage.

7. As a sequel, miscellaneous petitions if any, pending in this Criminal Revision Case shall stand closed.



JUSTICE M. SATYANARAYANA MURTHY.

05/09/2017
I s L

NB: Furnish CC today.
B/o. I s L

HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE NO. 2399 OF 2017
(DISMISSED)



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