

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2685 of 2016

AND

CRL.RC(SR) No.54159 OF 2016

COMMON ORDER:

Crl.Rc.M.P.No.4777 of 2016 is allowed and delay is condoned from hearing both sides and while directing Registry to number the revision otherwise in order covered by Crl.Rc(SR).No.54159 of 2016, the same is taken up for disposal along with Crl.Rc.No.2685 of 2016 from both parties appearance for common disposal as outcome of the same impugned order of the learned Judge of the Family Court in M.C.No.5 of 2015, dated 30.07.2016.

2. Heard both sides in both the matters at length and perused the impugned order of the lower court.

3. From the evidence on record of the factum, not even in dispute, the husband is School Assistant in Z.P.High school, Pathatekkaly of Vajrapu Kotturu Mandal of Srikakulam District, since 2009 and his gross monthly salary, as on January 2016, is Rs.50,032/- with any annual increments thereafter by now to be added in considering. Undisputedly, the wife maintained for herself against him D.V.C.No.21 of 2015 and in said Domestic Violence Case, there was an order in her favour including for the monetary relief by way of maintenance at Rs.10,000/- per month, which was ordered

only from the date of the order passed on 14.06.2016 and not from date of petition.

4. It is almost with proximity of time to the D.V.C. case supra, the wife for herself and the minor child filed the M.C.No.5 of 2015, under Section 125 Cr.P.C., by claiming maintenance at Rs.20,000/- per month to her and Rs.15,000/- to the minor son, aged 14 years by the year 2015. The learned Judge, Family Court, after full dressed trial from the evidence on record of P.Ws.1 and 2 and R.W.1 with reference to Ex.P.1 to P.5 and R1 to R6, particularly referring to Ex.R3 of December 2015 salary showing Rs.50,032/- gross, by considering the fact that order passed in D.V.C.No.21 of 2015 covered by Ex.R6 only from the date of order on 14.06.2016 and not from date of petition, for the interregnum period till granting of monetary relief in D.V.C., awarded the maintenance to the wife at Rs.20,000/- per month viz., from date of M.C. petition filed on 18.06.2015 till end of May 2016, besides legal expenses of Rs.5,000/- and also in so passing the order granted maintenance of Rs.15,000/- to the minor son only till that period, though the D.V.C. case no way reflects any granting of maintenance to the minor son in not considering from having held entitled.

5. Impugning the said quantum as excessive, the husband maintained the revision CrI.R.C.No.2685 of 2016 and impugning in not granting maintenance to the minor child,

after end of May 2016, the wife for the minor child, filed the other revision referred supra.

6. In the factual scenario, from his gross salary of more than Rs.50,000/- per month and the minor child is school going also entitled to maintenance, while upholding the entitlement of maintenance by wife and minor son and the amount awarded in D.V.C. also to be taken into consideration and because D.V.C. revision stated pending against the impugned D.V.C. order in 21 of 2015 on the file of the learned Sessions Judge, Srikakulam as D.V.C. Appeal No.104 of 2016, while closing the D.V.C. appeal proceedings, since that is also answered in this revision, by withdrawal from the file of the learned Sessions Judge to the file of this Court for common disposal, the maintenance awarded in D.V.C. case to the wife is modified from date of order to date of petition and by reducing from Rs.10,000/- to Rs.7,500/- and maintenance since awarded in D.V.C., no further amount of maintenance entitled in the maintenance case by the wife again. So far as the minor child concerned, to award at Rs.5,000/- per month from date of maintenance petition till attaining majority, with legal expenses of Rs.10,000/- in all the matters in favour of the wife and minor child.

7. Accordingly and with above observations, both the revisions supra and the revision pending against D.V.C. matter before the court of Sessions are disposed of. The

learned Sessions Judge shall close the pending D.V.C. Appeal proceedings before it by virtue of this order as disposed of. However, to avoid execution of D.V.C. order and M.C. order respectively, the amount of Rs.7,500/- to wife and Rs.5,000/- to minor child per month till attaining majority awarded in the M.C. case by directing that equal amount in D.V.C. again need not be paid, if paid in the M.C. to the wife and else to execute.

5. Miscellaneous petitions pending, if any, in this case shall stand closed.

23.03.2017
SS

DR.B.SIVA SANKARA RAO,J

