

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE NO.1038 OF 2011

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., assailing the order, dated 28.02.2011 in M.C.No.14 of 2006 on the file of the Judge, Family Court-cum-IV Addl. District and Sessions Judge, Vijayawada, wherein and whereby, the petition filed by the petitioner was allowed granting maintenance at the rate of Rs.3,000/- per month.

2. For the sake of convenience, the parties hereinafter will be referred to as they were arrayed before the trial Court in M.C.No.14 of 2006 to avoid confusion.

3. Learned counsel for the respondent (petitioner herein) strenuously submitted that the trial Court has not considered Exs.D1 to D3 and allowed the petition on erroneous grounds. He further submitted that the petitioner received some amounts towards full and final settlement and the same was not considered by the trial Court.

4. Per contra, learned counsel for the petitioner (respondent herein) submitted that the trial Court after considering the age and financial status of the parties, granted maintenance at the rate of Rs.3,000/- per month and the same is not on higher side.

5. The points that arise for consideration, in this revision, are:

- 1) Whether the quantum of maintenance granted by the trial Court is on higher side? and
- 2) Whether there is any illegality, irregularity or impropriety in the order of the trial Court, which warrants interference of this Court while exercising the revisional jurisdiction under Sections 397 and 401 Cr.P.C.?

6. Since both the points are inter-linked with each other, this Court is inclined to answer both the points simultaneously, in order to avoid re-capitulation of facts.

7. The facts leading to filing of revision case are as follows: The petitioner is the wife of the respondent. The respondent filed O.P.No.70 of 1992 on the file of the Senior Civil Judge, Amalapuram against the petitioner for dissolution of marriage and the same was allowed on 16.03.1993. Thereafter, the petitioner and the respondent have been residing separately. The petitioner filed the above M.C. under Section 125 Cr.P.C. seeking maintenance of Rs.3,000/- per month. The case of the petitioner is that she is not having any source of income; therefore, she is entitled for maintenance.

8. The respondent filed counter *inter alia* contending that he executed a relinquishment deed in respect of an extent of Ac.0.80 cents of land in favour of his son; therefore, the petitioner is not entitled for maintenance.

9. To substantiate the case before the trial Court, the petitioner herself was examined as P.W.1 and got marked Exs.P1 to P4. To demolish the case of the petitioner, the respondent himself was examined as R.W.1 and got marked Exs.D1 to D8.

10. The trial Court after considering both oral and documentary evidence available on record, arrived at a conclusion that the petitioner is entitled for maintenance and accordingly allowed the petition granting maintenance at the rate of Rs.3000/- per month. Hence, this revision.

11. The predominant contention of the learned counsel for the respondent (petitioner herein) is that the trial Court has not considered Exs.D1 to D3. A perusal of the

record reveals that all these documents were executed on the same day. The contention of the petitioner (respondent herein) is that her signatures were obtained on those documents without disclosing the contents of the same. For one reason or other, the respondent did not choose to examine the scribe or attesor of Exs.D1 to D3. The trial Court gave a specific finding that the respondent failed to prove the recitals of Exs.D1 to D3. As rightly pointed out by the trial Court Exs.D1 to D3 are no way helpful to the respondent to demolish the case of the petitioner.

12. It is not in dispute that after obtaining divorce, the respondent married another woman. The definition of wife includes a divorced wife under Section 125 Cr.P.C. By the time of filing of the petition, the petitioner was aged about 48 years. By the time of filing of the petition, the respondent was working as Superintendent in Irrigation Department. A perusal of the record also reveals that legal notices were exchanged between the parties. There is a social and moral obligation on the part of the husband to look after the welfare of his wife under any circumstances. The trial Court made an observation that the respondent is getting pension of Rs.15,000/- per month. The petitioner being the divorced wife of the respondent is legitimately entitled to seek maintenance from the respondent. Absolutely, there is no material on record to establish that the petitioner is having any source of income.

13. Taking into consideration the financial status of both parties and prevailing price index, this Court is of the considered view that the amount of Rs.3,000/- per month is hardly sufficient for sustenance of the petitioner. It is a matter of common knowledge that one has to spend some amount towards medicines in the old age. Viewed from any angle, I am unable to accede to the contention of the learned

counsel for the respondent that granting maintenance at the rate of Rs.3000/- per month to the petitioner is on higher side. I am fully agreeing with the findings recorded by the trial Court. There is no illegality or irregularity in the order passed by the trial Court, which warrants interference of this Court while exercising the revisional jurisdiction under Sections 397 and 401 Cr.P.C. Therefore, the revision lacks merits and bona fides and is liable to be dismissed.

14. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending, in this revision shall stand closed.

DATED: 05-10-2017.
Hsd

T.SUNIL CHOWDARY, J

