

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

**CRIMINAL REVISION CASE No.1499 of 2012
AND
CRIMINAL REVISION CASE No.1018 of 2015**

COMMON ORDER :

Criminal Revision Case No.1499 of 2012 is filed by the petitioner aggrieved by the judgment rendered by the Court of XI Additional District and Sessions Judge (Fast Track Court), Ranga Reddy District, L.B. Nagar in Criminal Appeal No.103 of 2010, dated 23.07.2012, by which the lower appellate Court, while allowing the appeal in part, modified the order passed by the Court of IX Metropolitan Magistrate, Cyberabad at Kukatpally, and granted monthly maintenance of Rs.1,500/- each to the respondents herein and also granted an amount of Rs.30,000/- towards compensation and damages.

2. Criminal Revision Case No.1018 of 2015 is filed aggrieved by the orders rendered by the Family Court at L.B. Nagar, Ranga Reddy District, in M.C.No.214 of 2010,

dated 09.04.2015, by which the respondents herein were awarded monthly maintenance of Rs.1,500/- each.

3. The relationship between the petitioner in both the revision cases and the respondents is that the petitioner is the husband. Respondent No.1 in Crl.R.C.No.1018 of 2015 is the State. The other respondents i.e. respondent Nos.2 to 4 in the said case are wife, minor daughter and minor son, respectively, of the petitioner. Likewise, the respondents in Crl.R.C.No.1499 of 2012 are the wife and minor children of the petitioner.

4. Making his submission that the amount granted by the Family Court, Ranga Reddy District, as maintenance and the amount granted by the lower appellate Court, which heard the DVC and passed judgment awarding monthly maintenance is unreasonable, learned counsel for the petitioner submitted that the petitioner has no occupation of his own and he is eking out his livelihood by doing labour work and sufficient proof was produced to show that he has no occupation, but without considering

the same, maintenance was granted in both the DVC and maintenance cases, which is unreasonable.

5. Taking this Court to the contents of Ex.R1, which was filed in M.C.No.214 of 2010, basing on which an award was passed by the Family Court, Ranga Reddy District, learned counsel for the petitioner contended that the learned Judge, in the order made an observation that only Photostat copy of the card issued by the Gram Panchayat Secretary of Mungi Village, Medak District, was got marked and the said document is inadmissible in evidence, but indeed, original was marked. The learned counsel also took this Court to the contents of the deposition of RW.1 wherein, while marking Ex.R1, it was clearly mentioned that it was compared with the original. Therefore, this Court agrees with the contention of the learned counsel for the petitioner that the learned Judge ought not to have observed that the document is inadmissible in evidence. When the said document was compared with the original, the learned Judge ought to have taken the contents of the said document into consideration. However, as rightly

submitted by the learned counsel for the respondents, only because the card issued by the Gram Panchayat Secretary of Mungi Village, Medak District, is filed to show that the petitioner is working as Labourer under Government Rural Employment Scheme, it cannot be concluded that he has no other occupation. The said document is not a conclusive proof.

6. A meticulous perusal of cross-examination of RW.1 i.e. the petitioner herein, who deposed when he entered into the witness box, goes to show that he made a clear statement that he was doing tailoring work before his marriage and even after his marriage he continued doing tailoring work in a shop. However, as rightly put-forth, the respondents failed to produce any proof with regard to actual earnings of the petitioner herein.

7. Further, another pertinent factor is that the petitioner, during the course of cross-examination when he was examined as RW.1, has clearly admitted that he made a mention in his counter that he married another girl and begot two children through her. He stated that the said

statement is not correct. If it is not correct, for what purpose he mentioned in his counter is not clarified. Learned counsel for the petitioner during the course of his submission stated that the fact that the petitioner married another girl after he left the respondents herein and begot two children through her is true. One fact that cannot be denied is that a person, only if he has got the capacity to maintain his wife and children would go for marriage that too for a second marriage This Court is unable to agree with the version of the petitioner that he has no capacity to pay atleast the sum of Rs.1,500/- per month each to his wife and two children, who are minors. When the orders under challenge are gone through, this Court finds that the said orders are reasonable and they need no interference. In the order rendered by the Family Court at L.B. Nagar, Ranga Reddy District, in M.C.No.214 of 2010, the learned Judge has made a clear mention that the amount payable as maintenance can be paid after deducting the amount already paid either in pursuance of the interim maintenance order in the said M.C. or in the DVC case. Further more, in DVC.No.19 of 2009, the learned IX

Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, awarded a sum of Rs.750/- per month as maintenance to respondent No.1 and Rs.150/- per month to each of respondent Nos.2 and 3 herein. Observing that the said amount needs modification, the lower appellate Court i.e. the Court of XI Additional District and Session Judge (FTC), Ranga Reddy District at L.B. Nagar, through judgment in Crl.A.No.103 of 2010, modified said order, which was under challenge, and granted monthly maintenance of Rs.1,500/- to each of the respondents herein and also granted Rs.30,000/- towards compensation and damages. The said amount is neither unreasonable nor whimsical. Further, the order under challenge is well reasoned and the learned Judge has taken into consideration all the aspects of the case. Therefore, none of the grounds urged by the petitioner are sustainable in the light of the well reasoned orders passed by the learned Judges of the Courts below, whose orders are under challenge. Therefore, this Court holds that both the revision cases are devoid of merits and deserve to be dismissed.

8. In the result, both the Criminal Revision Cases are dismissed. Interim order granted by this Court on 29.08.2012 shall stand vacated.

9. As a sequel, miscellaneous applications pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

16.02.2022.
Msr

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