

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.3116 of 2016

ORDER :

The impugned order dated 01.08.2014 of the learned IV Additional Chief Metropolitan Magistrate, Visakhapatnam, in D.V.C.No.6 of 2014 by setting the respondent exparte for non-filing of counter despite opportunity given, by proceeding exparte in granting maintenance of Rs.10,000/- per month from the date of the petition with a direction not to cause any domestic violence against the DVC petitioner by the DVC sole respondent, when impugned in CrI.A.No.172 of 2015 on the file of the II Additional Metropolitan Sessions Judge, Visakhapatnam, on the legality and correctness, by also saying subsequent to setting exparte for non-filing of counter with a petition when counter filed that was not considered in passing any order of allowing or rejecting, but disposal and even the learned lower appellate Court having discussed the same without adverting to it in the operative portion or discussion of the order, disposed of the appeal by judgment dated 28.09.2016 by confirming the order of the trial Court, as unsustainable maintained the present revision.

2. Learned counsel for the revision petitioner reiterates the above in the course of hearing the revision.

3. Whereas, it is the submission of the learned counsel for the 1st respondent – DVC petitioner that the order no way requires interference and the order is very clear as, after setting exparte for non-filing of counter, later filed counter, and even that was not considered by the learned Magistrate, the lower appellate Court,

having discussed the same, thought of no grounds to reopen the matter, including to interfere with the quantum of maintenance of Rs.10,000/- per month, thereby for this Court, while sitting in revision, there is nothing to interfere.

4. Heard both sides at length and perused the material on record.

5. The claim of the DVC petitioner is that the respondent is a photographer running Photo Studio at Siripuram of Visakhapatnam Metro City. The claim of the respondent is that the Studio is closed for no business now-a-days and he is not earning and he is almost with no avocation.

6. In fact, once he is a skilled person, being trained as a Photographer having run the Studio, even on his own say, for no proof of its closing, his earnings can be assessed from the skilled work, for nothing to show that his wife is having any independent source of income, thus, the only thing to be interfered is on the quantum of maintenance awarded as compensation under Section 20 of the Domestic Violence Act. So far as maintenance is concerned, what the Court feels from hearing, granting of Rs.10,000/- per month from the date of petition is excessive to reduce it to Rs.8,000/- (Rupees eight thousand only) per month and in all other respects, practically within the limited scope of revision, there is nothing to interfere.

7. Accordingly, this Criminal Revision Case is disposed of. Time is granted for payment of arrears in three equal monthly instalments from the date of receipt of a copy of this order. Non-

payment of any single instalment entitles the revision respondent to recover the entire amount.

8. As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

03.02.2017
Msr



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