

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE Nos.680 of 2017 & 2759 of 2016

COMMON ORDER:

Crl.R.C.No.680 of 2017 is maintained by the wife and Crl.R.C.No.2759 of 2016 is maintained by the husband respectively impugning the order of the learned Judge, Family Court, Tirupati, in M.C.No.27 of 2014 dated 01.07.2016.

2. The wife claimed maintenance under Section 125 Cr.P.C. at Rs.30,000/- per month from the date of petition. The relationship between the parties from the valid marriage dated 17.02.2014 with no children in their wedlock is not in dispute. The fact that the respondent husband to the maintenance case is qualified and was working not in dispute of what he claims is from the so called harassment he met in the hands of his wife even outcome of a short stay of their amicable marital life from the circumstances, he was forced to resign the job. The resignation is different from removal from job; a resignation is always to be presumed as per the settled law from existence of better prospects as no prudent person earning a handsome salary can resign his job and there are no such compelling circumstances even to go to such extent and for not a case of removal, there is nothing to appreciate the contentions strenuously made even in the revision by the respondent husband of the MC of he is now penny less after lost the job from the compulsion to resign. Coming to the other core of contention of awarding Rs.15,000/- per annum in addition to maintenance of Rs.5,000/- per month or as sustenance is unsustainable. True maintenance when included awarding of 2 amounts for the same

head is unsustainable to set aside the granting of Rs.15,000/- per annum other than what the monthly maintenance entitled. Now coming to the other contention of the MC respondent husband of awarding maintenance from the date of petition rather than from the date of order special reasons are required, placed reliance on single Judge expression of this Court in **Dasyam Elizabeth Rani and Others Vs. Dasyam Pradeep Kumar**¹. The judgment rendered was dated 29.08.2000. This Court cannot ignore the amendment to Section 125 Cr.P.C. by incorporation of second proviso to sub Section 1 which says the Court may during pendency of the maintenance proceedings award interim maintenance. So from the very wording no application is even required for interim maintenance and once it is the duty of the Court in a claim under Section 125 Cr.P.C. of wife claims any destitution to award interim maintenance even in awarding in the final disposal from granting of maintenance from the date of petition, thereby no reasons are required practically by virtue of the amendment though earlier position of law from date of petition to order reasons are required, thereby that decision is distinguishable to the position of law after the amendment to Section 125 Cr.P.C. sub Section 1 by incorporation of proviso (2) with effect from 24.09.2001 by Act No.50/2001.

3. Coming to the other contention that there is likelihood of the petitioner husband filing additional evidence application if time being granted under Section 391 Cr.P.C. of material gathered shows his wife got some other source of income to claim

¹ 2001 Cr.L.J. 47

disentitlement, it is left open to him if at all by virtue of enabling provision under Section 127 Cr.P.C.

4. Coming to the quantum with respective claims either excessive or utterly low concerned, a perusal of the impugned order of the lower Court shows having scanned the facts fresh in mind by recording evidence when come to the conclusion and the power of revision since very limited there is nothing to interfere either to enhance or to dismiss.

5. Accordingly and in the result, both the revisions are disposed of while upholding the order of maintenance of Rs.5,000/- per month from the date of petition and legal expenses of Rs.2,000/- by setting aside the additional sum of Rs.15,000/- per annum.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 15.03.2017
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