

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.691 of 2008

ORDER:

Heard Sri B. Dilip Kumar, learned counsel, for Sri S. Chalapathi Rao, learned counsel for the revision petitioner/husband, and Sri C.A.R. Seshagiri Rao, learned counsel for the respondent-wife.

2. The learned Judge, Family Court, Warangal, disposed of O.P. No.126 of 2004 and M.C. No.33 of 2005 together by common order dated 18.01.2008 between the parties.

3. O.P. No.126 of 2004 was filed by the husband seeking a decree of divorce by dissolution of their marriage, whereas M.C. No.33 of 2005 was filed by the wife requesting to grant monthly maintenance of Rs.2,000/- contending that the husband was earning Rs.4,000/- to Rs.5,000/-, working in private sector. The other facts narrated in the petition as well as the counter are not in dispute. Of course, the husband refuted the allegations levelled by the wife in Maintenance Case and *vice versa* in the Original Petition.

4. Before the learned Judge, Family Court, the husband himself examined as P.W.1 and one Dr. K. Sathish Chander, examined as P.W.2 and marked Ex.A1-certified copy of FIR in Crime No.121 of 2007 of Intezargunj P.S. Whereas, on behalf of the

respondent-wife, RWs.1 to 5 were examined and Exs.B1 to B3 were marked, besides Exs.X1 to X3 also marked.

5. The learned Judge, Family Court, on appreciation of the evidence on record, deliberated as to the source of income or earnings of the husband and the need of the wife seeking maintenance and ultimately found that the husband was working as a private teacher and will be getting not less than Rs.3,000/- per month and thereby awarding a sum of Rs.1,000/- per month towards monthly maintenance to the wife, and, accordingly, decreed the Maintenance Case directing to pay Rs.1,000/- per month from the date of petition and continuously on or before 15th of every succeeding month.

6. In the Grounds of Appeal, which is preferred by the husband against the orders in Maintenance Case, again reiterating that the marriage was not consummated and that he is working as a private employee and the wife has self-sustained means and that the learned Judge erred in awarding maintenance of Rs.1,000/- from the date of petition and sought to set aside the order and decree passed by the Family Court.

7. Sri B. Dilip Kumar, for Sri S. Chalapathi Rao, learned counsel would submit that there is no material to show that the husband was working. Even otherwise, his submission is that the husband was earning Rs.2,500/- per month as a private teacher and,

therefore, granting Rs.1,000/- per month to the wife towards maintenance causes severe hardship to the petitioner.

8. *Per contra*, the learned counsel for the respondent-wife would submit that the husband was getting Rs.4,000/- to Rs.5,000/-, even as a private teacher. The order awarding Rs.1,000/- per month is based on well-judged appreciation of evidence on record. There is absolutely no error crept in the order passed by the learned Judge, Family Court. The amount of Rs.1,000/- awarded by the Tribunal is on lower side when cost of living in the year 2008 is kept in view, tendency in matters of this nature on the part of the husband will be to come up with less salary or earning so as to avoid payment of maintenance in case the Court opines that the wife is entitled to maintenance, and award maintenance.

9. Therefore, there is no merit in the present Criminal Revision Case and, accordingly, the same is dismissed confirming the order passed by the Judge, Family Court.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Revision Case, shall stand closed.

A. SHANKAR NARAYANA

Dt.14.11.2017

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