

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.1124 of 2005

ORDER:

This Criminal Revision Case, under Sections 397 and 401 Cr.P.C., is filed questioning the propriety and legality of the order, dated 15.06.2005, passed in M.C.No.08 of 2005 by the Judge, Family Court, Secunderabad.

2. For the sake of convenience, the parties hereinafter will be referred to, as they arrayed before the trial Court.

3. The petitioner is wife of the respondent. The petitioner filed maintenance case under Section 125 Cr.P.C., claiming maintenance of Rs.5,000/- per month alleging that her marriage with the respondent was performed on 29.05.1996 at Citizen Function Hall, Musheerabad, Hyderabad, as per Hindu rites and caste customs. From the date of her marriage, she is living under constant fear and threat from the respondent. The respondent never treated her as a human being and demanded an amount of Rs.3,00,000/-; that when the petitioner expressed her inability, the respondent poured kerosene and threatened her to kill by lighting matchstick, but, the neighbours came and rescued her. The respondent subjected her to cruelty. It is further stated that the respondent filed O.P.No.91 of 2003 on the file of Judge, Family Court, Secunderabad, for dissolution of marriage. The said O.P. was dismissed on 17.08.2004 and since then the petitioner made several attempts to join with her husband, but in vain. It is specifically stated that the respondent is working as cashier HRC and Book Maker in Race Club, Malakpet, Hyderabad, and drawing

salary of Rs.10,000/- per month. He also own a house and getting rent from joint family properties. Besides that the respondent is also doing money lending business, but refused and neglected to main her. Hence, the petition.

4. The respondent filed counter denying the allegations made in the petition and contended that he never harassed and neglected the petitioner. The petitioner is doing private job and getting sufficient income. The respondent is working in Race club and getting salary of Rs.2,000/- per month and hence, he prays to dismiss the petition.

5. After completion of trial, upon hearing argument of both the counsel, the trial Court recorded a finding that the respondent refused and neglected to maintain the petitioner and filed O.P.No.91 of 2003 for dissolution, which was ended in dismissal. Apart from that the respondent subjected her to cruelty, therefore, there is any amount of justification for her separate living and granted maintenance of Rs.1,000/- per month to the petitioner having found that the respondent is earning Rs.2,000/- per month.

6. Aggrieved by the said order, the present revision is filed on various grounds, mainly on the ground that the petitioner is not entitled to claim maintenance as the respondent never neglected and refused to maintain her; that she herself deserted the respondent without any reason and thereby, the trial Court committed error in awarding maintenance at the rate of Rs.1,000/- per month.

7. When the matter came up for hearing, learned counsel for the petitioner Sri V.Sanara Rao neither appeared nor any representation is made on his behalf, therefore, this Court has no option except to verify the record and pass appropriate orders without dismissing the revision case for default, in view of law declared by the Delhi High Court reported in ***Misha Sharma v. Vinod Kumar Sharma***¹, wherein it is held that the revision petition cannot be dismissed for default even if the petitioner or Advocate does not appear before the Court. The Court can examine the record and decide the revision case on merits. Therefore, persuaded by the principle laid down in the above Judgment, this Court decides to dispose of the present revision case basing on the material available on record.

8. As seen from the material on record, the respondent filed O.P.No.91 of 2003 for dissolution of marriage, which ended in dismissal, is a strong circumstance to believe that there is subsistence of marriage between respondent and the petitioner as wife and husband. It is the case of the petitioner that the respondent subjected her to cruelty for her failure to meet the illegal demand of Rs.3,00,000/-. On account of cruelty, the petitioner is living separately. In spite of her attempts to join with the respondent, her efforts became in vain. Therefore, there is any amount of justification for her separate living on account of the harassment meted out by the petitioner in the hands of the respondent. The respondent did not take any steps to restore the family tie though the petitioner alleged that the respondent deserted her without any reasonable cause. Therefore, the finding

¹ 1990 Cr.LJ. (NOC) 57 (Del.)

of the trial Court that the respondent refused and neglected the petitioner to maintain her is justified.

9. Coming to the quantum of maintenance, the respondent is earning Rs.2,000/- per month in the year 2005 and the present income is not known. However, the trial Court granted maintenance of Rs.1,000/- per month to the petitioner. Though Rs.1,000/- per month is not sufficient to meet both ends by the petitioner, in view of salary being received by the respondent, this Court has no option except to confirm the maintenance granted by the Court below. Therefore, I find no ground to interfere with the finding recorded by the trial Court.

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

M. SATYANARAYANA MURTHY, J

SEPTEMBER 21, 2017

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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 21.09.2017

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