

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1658 of 2011

ORDER:

1 This Criminal Revision Case is filed under Section 397 and 401 Cr.P.C. challenging the order dated 19.04.2011 passed in M.C.No.26 of 2010 on the file of Judge, Family Court-cum-Additional District Judge, Mahabubnagar wherein and whereby the petition filed by the respondent herein under Section 125 Cr.P.C was allowed, granting maintenance of Rs.3,000/- p.m to the respondent.

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

3 The contention of the learned counsel for the respondent (petitioner herein) is that the trial Court without taking into consideration the social responsibilities of the respondent granted maintenance of Rs.3,000/- p.m. to the petitioner, which is on higher side. He further submitted that if the order passed by the Court below is allowed to stand, it would certainly, amount to miscarriage of justice.

4 *Per contra*, the learned counsel for the petitioner (respondent herein) submitted that the trial Court considered various aspects and allowed the petition.

5 The factual matrix that led to the filing of the present Criminal Revision Case is as follows:

6 The marriage of the petitioner was performed with the respondent on 07.05.2007 as per Muslim rites and caste customs. Immediately after the marriage, the petitioner joined the respondent

to lead marital life. The petitioner has been suffering from Thyroid and T.B. The respondent intentionally and wilfully neglected to provide maintenance to the petitioner. Hence the petitioner filed the above petition seeking maintenance from the respondent.

7 The respondent filed counter admitting the relationship *inter alia* contending that the petitioner herself left the matrimonial home of the respondent without any justifiable reason and hence she is not entitled to claim maintenance from him.

8 Before the trial Court, to substantiate the case, the petitioner examined herself as P.W.1 and got marked Exs.P.1 to P.11. To demolish the case of the petitioner, the respondent examined himself as R.W.1 and got marked Exs.R.1 to R.7.

9 The trial Court, basing on the oral, documentary evidence and the other material available on record, came to the conclusion that the respondent wilfully and intentionally neglected to provide maintenance to the petitioner and accordingly allowed the petition, granting maintenance of Rs.3,000/- p.m. to the petitioner. Feeling aggrieved by the order dated 19.04.2011 of the trial Court, the respondent filed the present Revision Case.

10 Now the points that arise for determination in this Petition are:

- “1. Whether the petitioner is entitled to claim Maintenance from the respondent?
2. Whether there is any illegality or irregularity in the order passed by the trial Court warranting interference of this Court?”

11 Both the points are intertwined with each other and hence I am inclined to address both the points simultaneously in order to avoid recapitulation of evidence.

12 It is not in dispute that the marriage of the petitioner was performed with the respondent in the year 2007. For one reason or the other, bad weather prevailed in the family life of the petitioner and the respondent, therefore, the petitioner has been living separately. A perusal of the record reveals that legal notices were exchanged between the parties. Having no other alternative, the petitioner filed the M.C.No.26 of 2010 seeking maintenance from the respondent at the rate of Rs.3,000/- p.m. The material placed before the Court clinchingly establishes that the respondent had intentionally and willfully neglected to provide maintenance to the petitioner. Therefore, the petitioner is entitled to claim maintenance from the respondent under Section 125 Cr.P.C.

13 It is the duty of the Court to take into consideration the financial status of the parties while granting maintenance. Absolutely, there is no material on record to establish that the petitioner is having any source of income. On the other hand, the oral and documentary evidence available on record clearly reveals that the respondent has been working as a Home Guard and earning Rs.6,000/- p.m. The contention of the respondent is that he has to look after the welfare of his sister and other family members. Simply because the respondent is having other social obligations, it will not automatically absolve his liability to provide maintenance to his wife i.e. the petitioner. There is social and moral obligation on the part of the husband to provide reasonable amount of maintenance to his wife. A perusal of the record reveals that the petitioner is suffering with some ailments. Therefore, she requires some amount towards medicines and treatment. In para No.21 of the order, the trial Court made an observation that the respondent is earning Rs.6,000/- p.m. I

am fully agreeing with the findings recorded by the trial Court with regard to the income of the respondent. The trial Court after taking into consideration the financial status of both parties granted maintenance of Rs.3,000/- to the petitioner. The amount of Rs.3,000/- p.m. is hardly sufficient even for sustenance of petitioner in these days in view of the hike in price index. I am in complete agreement with the findings of the trial Court with regard to the quantum of maintenance.

14 Viewed from any angle, I am unable to accede to the contention of the learned counsel for the respondent that the amount of maintenance awarded by the trial Court is on higher side. There is no illegality or irregularity in the orders passed by the trial Court warranting interference of this Court. The points are answered accordingly.

15 For the foregoing discussion, this Criminal Revision Case is devoid of merit and is accordingly dismissed. As a sequel, miscellaneous petitions if any pending in this Criminal Petition shall stand closed.

Date: 05.10.2017
Kvsn

T.SUNIL CHOWDARY, J