

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE NO.301 OF 2006

ORDER:

This criminal revision case is filed by the petitioner/wife, dissatisfied with the quantum of maintenance awarded by the Judicial First Class Magistrate at Janagaon in M.C.No.15 of 2004 dated 03.11.2005.

The petitioner/wife filed a petition under Section 125 Cr.P.C for maintenance of Rs.6,000/- per month before the Judicial First Class Magistrate at Janagaon, alleging that she is legally wedded wife of the respondent and the respondent is working as Software Engineer, earning 4,000 American Dollars (around Rs.2 lakhs) per month towards his salary and he refused and neglected to maintain the petitioner without any reasonable cause. Therefore, claimed maintenance @ Rs.6,000/- per month.

The respondent/husband did not contest M.C.No.15 of 2004 and remained *exparte*.

The Trial Court after recording evidence of the petitioner as P.W.1 and perusing the evidence of P.W.1, observed that except the evidence of P.W.1, no document is placed before the Trial Court in proof of salary drawn by the respondent and other source of income. Hence, in the absence of the any documentary evidence, the Trial Court awarded the petitioner towards maintenance @ Rs.2,500/- per month from the date of order. Assailing the order of the Trial Court, the present criminal revision case is preferred

reiterating the contentions that the respondent is working as Software Engineer, earning 4,000 American Dollars (around Rs.2 lakhs) per month towards his salary and as he refused and neglected to maintain the petitioner without any reasonable cause, she is entitled to claim maintenance @ Rs.6,000/- per month.

It is contended that the Trial Court awarded only meagre amount towards maintenance which is not commensurate with the standard of living, which the petitioner is expected to lead and requested this Court to set-aside the order passed by the Trial Court in M.C.No.15 of 2004 and grant maintenance @ Rs.6,000/- per month.

During hearing, learned counsel for the petitioner Sri I. Gopala Reddy would contend that the amount awarded by the Trial Court is minimum and not even sufficient to cater to the needs basing on the price index and requested this Court to grant maintenance @ Rs.6,000/- per month.

As seen from the order under challenge, the petitioner filed an affidavit in support of her contention and contended that the respondent is working as Software Engineer, earning 4,000 American Dollars (around Rs.2 lakhs) per month towards his salary, but did not produce any iota of evidence to substantiate the contention that the respondent was working as a Software engineer and earning 4,000 American Dollars per month. In the absence of any proof to substantiate the said contention, the Court has no option, except to grant reasonable amount. Therefore, the Trial

Court granted maintenance @ Rs.2,500/- per month from the date of order.

No doubt, granting maintenance from the date of order is the rule. If, the Court wants to award maintenance from the date of petition, the Court has to record reasons in view of Section 125(2) Cr.P.C. But, here, the Trial Court is not required to record any reasons, as the trial Court followed normal rule of granting maintenance from the date of order. Therefore, I find no ground to interfere with the findings of the Trial Court warranting interference of this Court.

However, if there are any changed circumstances from the date of order, the petitioner is at liberty to file an application for enhancement of maintenance. On filing an application, if any, by the petitioner for enhancement of maintenance, the Trial Court shall act in accordance with law.

Hence, this criminal revision case is dismissed, while granting liberty to the petitioner to file application for enhancement of maintenance due to changed circumstances from the date of order, if any.

In the result, the criminal revision case is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:05.10.2017

SP