

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.113 OF 2007

JUDGMENT:

When the present Criminal Revision Case was called during fore-noon session having been listed in the advance list, there was no representation for the revision petitioner. Again, it was called during After-noon session, still, there is no representation. Keeping in view, that Maintenance Case relates to the year 2002, and the Criminal Revision Petition before the learned Sessions Court, Nellore, relates to the year 2003, and has been pending on the file of this Court since 2007, proceeded with disposing of it on merits. Of course, Sri M. Venkata Narayana, learned counsel for respondent No.1 is present.

2. The present Criminal Revision Case is filed questioning the order, dated 12.10.2006, in Criminal Revision Case No.81 of 2003, passed by the learned I Additional Sessions Judge, Nellore Division, Nellore, whereby and where-under, the learned Sessions Judge allowed the revision petition setting aside the order, dated 01.12.2003 in M.C. No.34 of 2002.

3. The learned Special Judicial Magistrate of First Class for Mobile Court, Nellore dismissed the M.C. No.34 of 2002 refusing to grant maintenance to the petitioner. Admittedly, the petitioner is no other than the daughter of respondent No.1 herein.

4. The learned Magistrate, Nellore referring to how the parents of the petitioner divided and started living separately under point No.1, then proceeded with point No.2 and observing that respondent No.1 herein was working as Deputy Manager in Bharath Dynamics Limited, Hyderabad, drawing a salary of Rs.16,000/- per month, referred to the order of the learned Judge, Family Court at Hyderabad in O.P. Nos.902 of 1998, O.P. No.305 of 2000 and I.A. No.192 of 2000, where the Judge, Family Court awarded Rs.1,000/- per month towards maintenance of the petitioner. Under point No.3, while referring to the said fact, has adverted to yet another feature of the case that mother of the petitioner was also contributing Rs.1,000/- per month and, thus, she was getting Rs.2,000/- per month towards her maintenance from her parents put together. Then, the learned Magistrate observes that the main purpose of providing maintenance is to see that the petitioner should not suffer for food, shelter and clothing, and the petitioner being minor, her education is also treated as a necessity, and ought to be taken into consideration, but, however, holding that cannot be a ground for the petitioner to claim higher amount towards maintenance, observed in concluding portion of paragraph No.11 thus:

“In this case the amount of Rs.24,000/- of which the respondent is directed to provide 50% is sufficient to meet the needs of the petitioner, even if the admitted claims of the petitioner are taken into consideration, leaving the luxuries. So, as the petitioner is at present getting

Rs.2000/- both from her mother and father collectively the said amount is sufficient to maintain herself and it cannot be said that she is unable to maintain herself.”

It is not clear what the learned Magistrate intended to project whether he was intending to hold that Rs.24,000/- was being awarded by the petitioner or Rs.2,000/- though in the last sentence of the said paragraph he would conclude that an amount of Rs.2,000/- received by the petitioner from both, her mother and father collectively is sufficient to maintain herself, and cannot be said that she is unable to meet herself, and thereby dismissed the petition.

5. When, thus, her request was refused, the petitioner carried the matter to the learned I Additional Sessions Judge, Nellore Division in Criminal Revision Petition No.81 of 2003. The learned Sessions Judge having deliberated on the submissions made by the respective sides, formulated the points for consideration in paragraph No.9, and while dealing with each point separately, under point No.2, referred to the evidence of PW.1 observing that the respondent No.1 was paying maintenance to his own daughter and not to a stranger, and the amount of Rs.2,000/- would not suffice to meet both ends, and thereby arrived at the option that it was desirable to grant Rs.2,000/- towards maintenance by directing respondent No.1 to pay the same. Also observing that respondent No.1 is earning Rs.20,000/- per month, and thereby awarded the said amount, though, the mother of the petitioner sought a sum of Rs.3,000/- as against Rs.5,000/- claim

made by the petitioner. Under point No.3, the learned Sessions Judge observed that the petitioner is to be awarded a maintenance of Rs.2,000/- per month from the date of petition till the marriage of petitioner by deducting the amounts if any awarded in pursuance of the order passed by the learned Judge, Family Court in the aforesaid mentioned OPs.

6. Though, the learned Sessions Judge has granted the amount of Rs.2,000/- per month ordering respondent No.1 to pay the same till the petitioner's marriage, but the claim was laid under Section 125 of the Code. The learned Sessions Judge, somehow, has not comprehended the provisions of Section 125 of the Code. The maintenance amount awarded under Section 125 of the Code will be during minority and when once child attains majority, no obligation is cast on the father to pay maintenance till the date of marriage. Therefore, to the said extent, the order passed by the learned Sessions Judge is modified.

The present Criminal Revision Case is, accordingly disposed of

As a sequel thereto, miscellaneous petitions, if any, pending in the revision case, stand closed.

A. SHANKAR NARAYANA, J

November 02, 2017.

Mgr