

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.239 of 2009

ORDER:

This Criminal Revision Case is filed, under Sections 397 and 401 of the Code of Criminal Procedure, assailing the order dated 31.1.2008, in M.C.No.92 of 2008 (M.C.No.156 of 2007 on the file of VI Additional Metropolitan Magistrate, Guntur) on the file of Judge, Family Court, Guntur.

2. The parties will be referred to as they are arrayed before the trial Court to avoid confusion.

3. Learned counsel for the respondent (petitioner herein) submitted that the trial Court granted maintenance of Rs.1,500/- per month to the second petitioner without taking into consideration the socio-economic conditions of the respondent. He further submitted that if the order of the trial Court is allowed to stand, it would amount to miscarriage of justice. ***Per contra***, learned counsel for the petitioners (respondents herein) submitted that the trial Court, after taking into consideration the material available on record, granted a meager amount of Rs.1,500/- per month to the second petitioner, who is none other than daughter of the respondent, towards maintenance. He further submitted that an amount of Rs.1,500/- per month is not sufficient even for basic needs of the second petitioner, leave apart educational expenses; therefore, it is not a fit case to interfere with the order of the trial Court.

5. The questions that arise for consideration, in this revision case, are as follows:

- (i) Whether the amount of maintenance granted by the trial Court is on higher side? and
- (ii) Whether there is any illegality, irregularity or impropriety in the order of the trial Court which warrants interference of this Court?

5. Both points are interlinked with each other; hence, this Court is inclined to address both the points simultaneously, in order to avoid recapitulation of facts and evidence.

6. To substantiate the case before the trial Court, on behalf of the petitioners, P.Ws.1 and 2 were examined, but no documents were marked. On behalf of the respondent, R.W.1 was examined and got marked Exs.B.1 to B.3.

7. Basing on the oral and documentary evidence available on record, the trial Court allowed the petition filed by the petitioners in-part by granting maintenance of Rs.1,500/- per month to the second petitioner, however, the trial Court dismissed the petition insofar as first petitioner is concerned, who is wife of the respondent.

8. The material available on record reveals that the marriage of the first petitioner was performed with the respondent on 07.03.2002 as per Hindu rites and caste customs. Immediately after the marriage, the first petitioner joined the respondent. Out of their lawful wedlock, they were blessed with daughter i.e., the second petitioner. For one reason or other disputes arose between the first petitioner and the respondent; therefore, the petitioners have been residing separately. Basing on the complaint lodged by the first petitioner, the Station House Officer, Pattabhipuram Police Station, Guntur, registered a case against the respondent in Crime

No.102 of 2007 for the offence punishable under Section 498-A IPC. The petitioners also filed case under the provisions of the Protection of Women from Domestic Violence Act against the respondent on the file of VI Additional Junior Civil Judge, Guntur. The respondent filed H.M.O.P.No.49 of 2007 on the file of Senior Civil Judge, Peleru, against the first petitioner for dissolution of the marriage and the same was allowed on 07.02.2008.

9. After considering the material available on record, the trial Court is not inclined to grant relief sought by the first petitioner. Both counsel submitted that the first petitioner did not file revision challenging the order, dated 31.10.2008, in M.C.No.92 of 2008 to the extent of dismissing the petition. Therefore, the finding recorded by the trial Court, so far as the first petitioner is concerned, has become final.

10. The second petitioner is the daughter of the respondent and the first petitioner. A perusal of the cause title clearly reveals that the respondent has been working as a Lecturer in private a college at Rompicherla, Guntur District. A Lecturer working, either in a private college or a Government college, may get good salary. As per the testimony of P.W.1, respondent is getting salary of Rs.20,000/- per month apart from agricultural income. The fact remains that the respondent is having source of income and highly qualified person. There is a social and moral obligation on the part of the respondent to provide reasonable amount towards maintenance to second petitioner. The trial Court, after taking into consideration the socio economic conditions and other attending circumstances, granted maintenance of Rs.1,500/- per month to

the second petitioner. By the time of filing of the petition, the second petitioner was aged about four years. The amount of Rs.1,500/- per month is hardly sufficient for sustenance of an individual in view of prevailing price index.

11. Viewed from any angle, I am unable to accede to the contention of learned counsel for the respondent that granting of maintenance at Rs.1,500/- per month to the second petitioner is on higher side. There is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court while exercising the jurisdiction under Section 397 Cr.P.C. There are no grounds, much less valid grounds, to interfere with the order of the trial Court.

12. Accordingly, the Criminal Revision Case is dismissed. Consequently Miscellaneous Petitions, if any, pending in this revision shall stand closed.

AUGUST 10, 2017
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T.SUNIL CHOWDARY, J

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY



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Date:10.08.2017

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