

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2231 OF 2005

JUDGMENT:

Since there is no representation for the revision petitioner, though, the present revision case was filed in 2005 and coming up for final hearing, decided to dispose of the same on merits.

2. The present Criminal Revision Case is preferred by the petitioner, wife of respondent No.2, aggrieved over the order dated 07.07.2005, in Criminal Revision Petition No.6 of 2005, whereby and whereunder, the learned III Additional Sessions Judge, Kurnool at Nandyal, reduced monthly maintenance from Rs.1,000/-, awarded by the learned Judicial Magistrate of First Class, Allagadda, by order dated 16.12.2004 in M.C. No.17 of 2002, to Rs.700/- per month.

3. Before the learned Magistrate, the revision petitioner examined herself as PW.1. Respondent No.2 examined himself as RW.1 and one K. Prasad as RW.2, and marked Exs.D-1 to D-5, which are salary slip of respondent No.2 and certain other documents.

4. The learned Magistrate having opined that it would be reasonable to award Rs.1,000/- per month, keeping in view, the cost living and maintenance of respondent No.2, ordered the said amount towards maintenance.

5. In Criminal Revision Petition, the learned Additional Sessions Judge, on reappraisal of the evidence, finding that the respondent (husband) was working as a driver in Andhra Pradesh State Road Transport Corporation (APSRTC) and getting Rs.8,000/- per month, but also looking at Ex.D-1 showing the gross salary as Rs.5,104/- and carry-home salary as Rs.2,159/-, opined that Rs.1,000/- awarded by the learned Magistrate was on higher side and thereby reduced it to Rs.700/- per month.

6. Now, the question is whether the order passed by the learned lower appellate Court by modifying the maintenance amount by way of reduction from Rs.1,000/- to Rs.700/- per month can be sustained?

7. The orders of both the Courts below have been perused. When it comes out that the gross salary of the respondent was Rs.5,104/- and carry-home salary was Rs.2,159/- and admittedly, the spouses did not have issues as only the revision petitioner (wife) claimed maintenance, the amount of Rs.1,000/- per month awarded by the learned Magistrate ought not to have been viewed as on higher side. It is no doubt true, RW.2's evidence shows that the revision petitioner was working in Bharathi Vidya Mandiram, Allagadda, and getting Rs.1,010/- per month. But, that cannot be a ground to reduce the monthly maintenance of Rs.1,000/- per month awarded by the learned Magistrate, to Rs.700/-, as the learned Magistrate has given cogent reasons by referring to the amount the revision petitioner was getting also. Therefore, the order of the lower appellate Court is set

aside restoring the order of the learned Magistrate in awarding Rs.1,000/- towards monthly maintenance of the revision petitioner (wife).

8. With the above directions, the Criminal Revision Case is allowed.

A. SHANKAR NARAYANA, J

November 13, 2017.
PV

