

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2184 of 2017

JUDGMENT:

This Criminal Revision Case, under Sections 397 and 401 Cr.P.C, is filed assailing the Order, dated 21.04.2017, passed in M.C.No.142 of 2012 by the Judge, Family Court, City Civil Court, Hyderabad, whereby, the petitioner herein/wife was awarded Rs.50,000/- per month towards maintenance allowance, directing the respondent herein/husband to pay the said sum on or before 10th of every month from the date of petition and that the interim maintenance granted shall be subsumed and adjusted from the said sum.

Brief facts of the case are that the petitioner herein/wife (hereinafter 'petitioner') filed a petition under Section 125 of the Code of Criminal Procedure, 1973, against the respondent herein/husband (hereinafter, 'respondent') claiming maintenance of Rs.5,00,000/- per month, alleging that her marriage with the respondent was performed on 25.11.2005 at TTD Kalyanamandapam, Liberty Centre, Hyderabad, and that at the time of marriage, her parents paid Rs.40,00,000/- as dowry besides presentation of gold, silver and other articles. The marriage was consummated and while she was living with the respondent, he was complaining that he was in deep depression. On 17.12.2005, the respondent left India to USA for his employment. Later, she joined with the respondent with a fond hope that the respondent would come out of the depression, but,

all her efforts proved futile. Later, the respondent started harassing her by abusing in slang language and talking sarcastically by saying that she is useless and sent her to India on 12.09.2009. The petitioner again joined the respondent on 24.12.2009 at New Jersey, USA, but, he became more aggressive and did not even provide proper food and sleep to her and used to harass her and treated her cruelly and beat her by closing the doors and abused her in filthy language. Because of the harassment meted out by her in the hands of the respondent, she came back to India on 08.01.2010. The respondent also came to India in May, 2010, and started demanding additional dowry by the sale of lands. Later, due to unbearable harassment in the hands of the respondent, she lodged a complaint with CCS Women Police Station on 11.04.2011 against the respondent and his parents, which was registered as a case in Crime No.132 of 2011. The respondent is working as Software Engineer at USA and getting 2.34 K US dollars per annum, which is equivalent to Rs.1,20,00,000/- per annum and his monthly income is Rs.10,00,000/-. Though the respondent is having sufficient means and income, he neglected and refused to maintain the petitioner, who is unemployed and not in a position to maintain herself.

The respondent/husband filed Counter admitting the relationship with the petitioner and denied all the material allegations raised by the petitioner including harassment and demand for additional dowry. He also denied the allegation of neglect and refusal to maintain the petitioner. He pleaded that

the petitioner and her father threatened him and his parents and filed a false case, and the petitioner herself left the company of the respondent without any reason causing mental strain, trauma and anxiety to him.

Upon hearing both the counsel, the Court below awarded a sum of Rs.50,000/- per month as maintenance allowance to the petitioner and directed the respondent to pay same on or before 10th of every month.

Dissatisfied with the quantum of maintenance awarded, the petitioner/wife filed the present Criminal Revision Case contending that the amount awarded by the Court below towards maintenance is very meager and that the petitioner/wife was neglected and refused by the respondent for no reason, but, the Court below, without considering the plea raised by the petitioner and evidence on record, passed such an erroneous order granting a meager amount of maintenance of Rs.50,000/-.

During hearing, Sri T. Lakshminarayana, learned counsel for the petitioner, while reiterating the averments in the grounds of Revision, would mainly contend that the respondent/husband is gainfully employed and that the Court below erred in taking into consideration the social status of the petitioner/wife commensurate with the monthly income of the respondent/husband in USA and that in any view of the matter, the petitioner/wife is entitled for more maintenance, but the Court below, without recording any finding on the aspect of

negligence and refusal on the part of the respondent to maintain the petitioner, awarded meager maintenance to the petitioner.

As seen from the material on record, the respondent is admittedly working in USA as software engineer and drawing salary of 2.34 K US Dollars per annum, which is equivalent to Rs.1,20,00,000/- per annum and Rs.10,00,000/- per month. But, the petitioner is mainly claiming maintenance for the reason that she was subjected to cruelty at USA and was not even provided with basic necessities by the respondent and that the respondent beat her by closing the doors of the room and therefore, she returned to India and that later, the respondent also came to India and started harassing her for additional dowry. This conduct is suffice to conclude that the respondent subjected the petitioner to cruelty and, obviously, when she subjected the cruelty, it is difficult for her to live along with him in one house. The respondent herein did not even provide the basic necessities to the petitioner, though he is having sufficient means of earning, and whereas the petitioner has no means to maintain herself. In fact, it is not the case of the respondent that the petitioner possessed sufficient means to maintain herself. Curiously, the respondent did not enter into the witness box, at least to deny the allegations made by the petitioner regarding harassment and means to pay maintenance etc. In such case, the Court below was left with no other option except to draw an adverse inference against the respondent, as he conveniently avoided cross examination by the learned counsel for petitioner. In view of the same, the contentions of the

respondent in his counter remained not proved, whereas the petitioner was able to prove that the respondent refused and neglected to maintain her though he has got sufficient earning capacity. Therefore, taking consideration, the standard of living of the petitioner in India commensurate with the standard of living at USA while she was living with the respondent and the earning capacity of the respondent, the Court below rightly granted maintenance at Rs.50,000/- per month to the petitioner while disagreeing with the contention of petitioner. The findings recorded by the Court below do not call for any interference by this Court while exercising power under Sections 397 and 401 of Cr.P.C. The Criminal Revision Case is *de void* of merit and is liable to be dismissed.

In the result, the Criminal Revision Case is dismissed.
There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date:07-08-2017.
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CrI.R.C. No.2184 of 2017
Dt. 07-08-2017

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