

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.489 of 2017

ORDER :

This Criminal Revision Case is filed by the petitioner/ wife against the order dated 25.01.2017 in CrI.R.P.No.194 of 2015 passed by the III Additional Sessions Judge, Kakinada, East Godavari District.

The revision petitioner herein is petitioner in M.C.No.10 of 2015 on the file of the V Additional Judicial First Class Magistrate, Kakinada, no other than wife of respondent No.1 herein. The relationship between the parties is not in dispute, but for, the means and entitlement of maintenance to the wife. It is from the enquiry with reference to the oral evidence of PW.1/ wife and RW.1/ husband and from her relying upon from four photographs Exs.P1 to P4 and husband relied upon Exs.R1 and R2, the learned Magistrate granted maintenance at Rs.7,000/- p.m. from the date of petition. Impugning the same, when the husband maintained CrI.R.P.No.194 of 2015, the learned Sessions Judge by the impugned order dated 25.01.2017 reduced the maintenance from Rs.7,000/- p.m. to Rs.2,500/- p.m. Aggrieved by the same, wife maintained present revision against her husband.

Heard both sides and perused the material on record.

The relationship between the parties, their qualification and the husband is otherwise able-bodied person are not in dispute. According to the wife, she is with no avocation and is unable to

maintain herself. The husband claims that she is running a school under the name and style of 'Stone Model School' in her residential house given in the M.C. petition cause title address of D.No.8-22-17 and getting income there from and she is also running a trust by name 'Jeevan Sravanthi Educational Welfare Society', old-age and orphanage homes and getting foreign funds. She denied the same of what he pleaded in his counter in her evidence. He did not produce any evidence contra to it in this regard. According to his contentions, by disputing her contention of he is getting foreign funds and he is a pastor and getting abundant resources and he is highly affluent, he claims that he is only serving voluntarily for a voluntary organisation and even what Ex.P3-photo only reflects the same and Ex.P2-photo also no way improves her contention much less belie his contention so also from e-mail-message print covered by Ex.P4. Coming to the photographs of Bullet motor cycle which he is owning in his name, it is his claim that his parents purchased an old bike for him.

The trial Court observed that he is maintaining a bike and having contacts with foreigners and he owns house and there from it shows he is affluent apart from substantiating of her contention of he is running an organisation, the photos Exs.P3 and P4 also substantiating the same. The copy of e-mail is not disputed by him of correctness of contents. Leave it as it is, even ignoring the same, the photos admittedly not in dispute but for his explaining. Once, the house reflects his owning, so also maintaining Bullet bike, it is hardly believable of he is doing voluntary service. He is

otherwise able-bodied and but for other means how he can own house and maintain bike. The lower revisional Court also in saying he is able-bodied and she is no way proved getting any earnings but for dependant on his mercy for her sustenance. Thus, his earnings can be estimated at a minimum of Rs.15,000/- p.m.

Having regard to the above, the maintenance awarded at Rs.7,000/- p.m., which was modified by the lower revisional Court at Rs.2,500/- p.m. is unsustainable and hence, the same is increasing from Rs.2,500/- p.m. to Rs.6,000/- p.m.. Three months time is granted to pay all arrears of maintenance in three equal monthly instalments from the date of receipt of copy of this order. Any non-payment of even first instalment entitles the petitioner/ wife to recover entire amount of arrears through due process of law.

Accordingly, the Criminal Revision Case is partly allowed.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

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Dr. B.SIVA SANKARA RAO J,

Date:24.04.2017.

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