

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.2516 of 2017

JUDGMENT:

The present Criminal Revision Case is preferred by the respondent-husband in FCOP (M.C.) No.141 of 2015 questioning the order dated 8.6.2017, passed by the learned Judge, Family Court, Guntur, awarding monthly maintenance of Rs.20,000/- to the 2nd petitioner from April, 2015 payable on or before 10th of every succeeding month; further directed that in case the 2nd petitioner has undergone any major surgery or treatment, the revision petitioner was to bear 50% of the medical expenses of the 2nd petitioner without filing any separate petition for the same.

2. Heard Sri D. Kasim Saheb, learned counsel for the revision petitioner and T.V.S. Prabhakar Rao, learned counsel for the respondents 1 and 2.

3. Before the learned Judge, Family Court, the 1st petitioner-wife examined himself as P.W.1 and marked Exs.A1 to A3; whereas the revision petitioner-husband examined himself as R.W.1 and marked Ex.B1-certified copy of judgment in C.C. No.204 of 2014 dated 16.11.2015, on the file of V-Additional Junior Civil Judge, Guntur.

4. So far as separate living of the petitioners is concerned, the learned Judge has opined that they are entitled to separate living on appreciation of the evidence on record.

5. Perused the findings recorded. Certainly, it is not a case where separate living can be commented. Even otherwise, no maintenance amount is awarded to the 1st petitioner-wife since she is employed. The present aspect pales into insignificance. The respondent-husband can seek custody of the child, in case he is really interested in the welfare of the child in a competent Court of law.

6. Now, turning to the monthly maintenance awarded, admittedly, the respondent-husband worked during the year 2013 and he had drawn salary of Rs.24,00,000/- per annum and he worked between 2007 till April, 2014, and according to him he left the job and looking after his parents at the village, and his wife is highly qualified. It is too difficult to believe that he would be sitting idle merely because the wife filed Section 498-A of I.P.C. complaint and he was prosecuted. It appears that the said Calendar Case No.204 of 2014 also ended in acquittal.

7. Now, turning to the respondent's case according to him, his wife is very affluent and drawing lucrative salary to maintain herself as well as the second petitioner and even to meet the medical emergency. According to him, he is owing two acres of land and he is eking out livelihood thereon. The learned Judge, Family Court, did

not believe the evidence of the respondent and held that it would be just and reasonable to award Rs.20,000/- per month since the 2nd petitioner-child is suffering from Juvenile Diabetic Type-1 complaint and needs medical check-ups and advised to undergo surgery for which she needs Rs.8,000/- to Rs.10,000/- per month for his normal maintenance and for his surgery at Rs.2,50,000/- to Rs.3,00,000/-.

8. The learned Counsel, no doubt, would submit that no medical proof is filed, but that cannot be a ground to disbelieve the factum of 2nd petitioner suffering with Juvenile Diabetic Type-1 Complaint. It appears that there was enough material, but, somehow, it is not marked. Even otherwise, it is clear from the list of documents appended to the petition, a copy of the medical treatment regarding 2nd petitioner – Kotapati Sidhardha issued by the Konacc Diagnostic Centre, Vijayawada, was filed. Mere failure on the part of the counsel in marking the said document is not a ground to disbelieve that the 2nd petitioner was not suffering with Juvenile Diabetic Type-1. It is too difficult for the wife to get the pay slip and the documents relating to annual package of the respondent-husband as it cannot be viewed that he would be sitting idle by cultivating two acres of land at his village, unless there is concrete material being filed by him to show his permanent residence at his village.

9. There is absolutely no merit in the present Revision Case. Therefore, the present Criminal Revision Case is dismissed

confirming the order passed by the learned Judge, Family Court in FCOP (M.C.) No.141 of 2015.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

December 08, 2017.

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