

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.1093 of 2013

JUDGMENT:

The present Criminal Revision Case is preferred by the husband questioning the award of maintenance of Rs.3,000/- each per month to the respondents 1 and 2, by the Judge, Additional Family Court, Visakhapatnam, on the ground that the monthly maintenance awarded is on higher side, though, he has no means to pay the said amount.

2. Heard Sri Y. Sudhakar, learned counsel for the revision petitioner and Sri K. Ratnam, learned counsel for the respondents 1 and 2.

3. The learned Judge, Family Court, by his order, dated 10.04.2013, in O.P. No.669 of 2010, filed under Section 125 of Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') by the respondents 1 and 2 herein claiming maintenance of Rs.7,000/- each granted the aforesaid amounts.

4. Before the Court below, P.Ws.1 and 2 were examined and no exhibits were marked on behalf of the petitioners, and the respondent/husband himself examined as R.W.1 and Exs.B1 to B6 were marked. The Court below, having analyzed the evidence and finding that gross salary of the revision petitioner was more than Rs.18,000/- and net salary is Rs.11,000/-, opined that it would be reasonable to award Rs.3,000/- each to the wife and child of the

revision petitioner, and, accordingly, awarded the amounts having found that they were entitled to separate residence on account of acts on the part of the revision petitioner.

5. Both the learned counsel, of course, did not dispute much about entitlement of the respondents 1 and 2 for separate living. But, the learned counsel for the petitioner would submit that the amount of Rs.11,000/- derived by him would indicate that if Rs.6,000/- is paid to the respondents 1 and 2, what remains is only Rs.5,000/-, and, therefore, requests to reduce the maintenance awarded by the Court below.

6. Learned counsel for the respondents 1 and 2 would dispute contending that the claim itself was for more than Rs.7,000/-, and, therefore, the amount granted by the Court below is just and reasonable on the date when the petition was filed, and due to passage of time even the amount of Rs.6,000/- would not be sufficient to meet both ends, and, thus, supported the order.

7. A perusal of the salary certificate filed by the petitioner for the month of April, 2013 would show that, the revision petitioner was drawing gross salary of Rs.21,847/- and deductions are shown at Rs.8,680/- and the net salary as Rs.13,167/-; in fact statutory deductions are Rs.2,000/- towards P.F., Rs.450/- towards A.P.G.L.I., Rs.30/- towards G.I.S., Rs.200/- towards Profession Tax. Other

deductions are non-statutory deductions which are Rs.300/- towards Festival Advance and Rs.5,700/- towards SBI Loan.

8. Thus viewed, it has to be considered that the revision petitioner was getting Rs.19,167/-, but, however keeping in view that he has to pay SBI loan of Rs.5,700/-, it would be reasonable to reduce maintenance amount granted to the 2nd respondent from Rs.3,000/- to Rs.2,500/- while maintaining monthly maintenance of Rs.3,000/- awarded to the 1st petitioner.

9. Thus, to that extent only, the present Criminal Revision Case is allowed in part directing the respondent to pay Rs.5,500/- as against Rs.6,000/- granted to the respondents 1 and 2 towards monthly maintenance.

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


A. SHANKAR NARAYANA

Dt.22.11.2017
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