

HONOURABLE Dr. JUSTICE B.SI VA SANKARA RAO

CRIMINAL REVISION CASE No.900 OF 2014

AND

CRIMINAL PETITION No.4976 of 2014

COMMON ORDER :

The revision petitioner and petitioner in CrI.P. No.4976 of 2014 is one and the same by name Varri Maheswara Rao. The respondents 1 to 3 in both the matters are none other than wife, minor daughter and minor son of petitioner supra by name Smt.Varri Venkata Lakshmi, Varri Sanjana and Varri Sujay respectively. The marriage of petitioner was performed with respondent No.1 on 23.02.1997 at Eluru Railway Kalyanamandapam, Eluru, West Godavari District and by the time, he was working as Pharmasist at Kuwait and she was working in Karvey Consultancy in Hyderabad. After marriage, respondent No.1 resigned for the job in 2007 and joined him at Kuwait.

2) According to respondent No.1, her husband started ill treatment at the evil advise of his mother and unmarried sister demanding additional dowry and gold and she was forced to secure a job by her husband. Accordingly, she joined as a programmer in January, 1998 and her husband was used to take her salary. Later, they came to India in January, 1999 for marriage of his sister. Then, she lost her job and by that time she was carrying. She gave birth to a female child in October, 1999. In December, 1999 her husband came to India with VISA to respondent Nos.1 and 2 but refused to take back them. But after persuasions, in June, 2002 she came to India and aborted pregnancy and returned to Kuwait and joined a new job. In March, 2003 she lonely came to India to attend her sister's marriage with his consent and he refused to come to India. When she was about to leave for Kuwait the petitioner informed that he cancelled her VISA.

She made a report to the Family Counselling Center, Eluru and basing on the same a crime was registered against the petitioner. Having come to know of the same, the petitioner filed H.M.O.P. No.50 of 2003 on the file of Senior Civil Judge, Vizianagaram and the same was dismissed for default. After several mediations, compromise was recorded in the criminal case in February, 2006 and he took her to Kuwait with the girl child. Later she became pregnant and gave birth to male child on 17.09.2007. In the month of November, 2007, the mother of respondent died at Denkada. He came to Denkada and went to his sister's house in Vizianagaram District leaving the respondents at Denkada. When disputes raised between them, the petitioner filed H.M.O.P. No.68 of 2008 on the file of Senior Civil Judge, Vizianagaram through power of attorney holder for divorce that was still pending. While the matter was pending, the petitioner along with other family members made an attempt to do away with the life of the respondent No.1, for which respondent No.1 lodged a report for the offences punishable under Sections 498-A, 307, 323, 406, 506 (2) r/w 34 I.P.C, Section 109 IPC and Sections 3 and 4 of Dowry Prohibition Act in Crime No.22 of 2010. The petitioner is drawing more than Rs.1,40,000/- p.m. besides other benefits. She filed M.C. No.10 of 2011 stating that she and her children are unable to maintain and the petitioner contested by disputing all the averments saying that respondent No.1 questioned even his spending of money for his mother's treatment in the year 2002 when seriously fell sick and she left to Eluru with children and elders chastised for her abnormal behaviour and in order to deter the petitioner, she foisted two false cases against younger brother and his wife and in 2000, he came down to India for perusing divorce petition. She lodged Crime No.20 of 2010 with Denkada Police Station and they were arrested and obtained bail. After compromise, she imposed a condition of petitioner depositing Rs.5,00,000/- in her joint account and he obliged for it

and in November, 2011 when his mother died, he came down to India and as per the said conditions, he deposited Rs.5,00,000/- in the account, which she withdrawn. He was paying Rs.5,000/- p.m. voluntarily for maintenance. She is not even taking care of minor children, he is getting salary of Rs.90,000/- p.m. and in Kuwait cost of living is high and is not in a position to pay maintenance of Rs.10,000/- p.m to each but for Rs.5,000/- p.m. to each.

3) It is from this, in the course of trial on behalf of wife herself examined as PW.1 and relied upon Ex.P1—certified copy of her deposition in H.M.O.P. No.68 of 2008 and the husband examined as RW.1 and relied upon Exs.R1 and R2—rent receipts and copy of statement of account issued by SBI, Eluru. It is from that evidence, learned Magistrate granted Rs.7,000/- p.m. to each i.e., wife and two minor children from the date of order i.e., 24.07.2012. Against which, the wife and children maintained Criminal Revision Petition No.46 of 2012 and husband maintained Criminal Revision Petition No.53 of 2012. The learned Judge, Family Court-cum-Additional District & Sessions Judge, Vizianagaram by common order dated 03.03.2014 allowed the revision of the wife and children, dismissing the revision of husband, by enhancing the maintenance of Rs.7,000/- to Rs.10,000/- p.m. to each revision petitioners 1 to 3 from the date of filing M.C before the lower Court. Thus impugning the same, the revision petitioner herein maintained the Crl.R.C. No.900 of 2014 and Crl.P. No.4976 of 2014.

4) Heard both sides and perused the material on record.

5) The relationship between the parties is not in dispute. The revision petitioner has already deposited Rs.5,00,000/- and the same was withdrawn by her and that respondent No.1 is not doing any job for herself

and her two children and got any means. What the revision petitioner claims that he was sending Rs.5,000/- p.m. prior to filing of maintenance case. Respondent No.1 claims that the revision petitioner was earning Rs.1,40,000/- p.m. and he claims that he was receiving nearly Rs.90,000/- to Rs.1,00,000/- p.m.. Though petitioner claims that cost of living in Kuwait is high, he did not produce any particulars as to what is the cost of living, how much is he spending, what is his gross salary. Even did not produce salary particulars and bank account. The learned Magistrate awarded maintenance meagrely at Rs.7,000/- p.m to each total comes to Rs.21,000/- p.m. for the wife and two children out of his estimated earnings about Rs.1,00,000/- p.m. even taking into consideration her claim that revision petitioner is drawing more than Rs.1,40,000/- p.m.

6) Even taken out of his gross salary from his admission of nearly Rs.90,000/- to Rs.1,00,000/- p.m. what the revision Court awarded of Rs.10,000/- p.m. to each, totally to Rs.30,000/- p.m. is no way excessive much less to reduce but for, the revision petitioner is directed to pay maintenance of Rs.7,000/- p.m. to each respondents 1 to 3 from the date of filing of M.C till date of order in M.C before the lower Court and thereafter revision petitioner has to pay maintenance at Rs.10,000/- p.m.

7) Accordingly and in the result, the Criminal Revision Case No.900 of 2014 is allowed in part and Criminal Petition No.4976 of 2014 is disposed of.

8) Miscellaneous petitions, if any pending shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.26.04.2017
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