

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CRIMINAL REVISION CASE No.2608 OF 2017**

**JUDGMENT:**

Heard Sri S. Surender Reddy, learned counsel for the revision petitioner.

2. The revision petitioner herein is respondent in M.C. No.16 of 2015 on the file of learned Judicial Magistrate of First Class, Korutla, filed by respondent Nos.2 to 4 herein requesting to award maintenance of Rs.2,500/- per month to respondent No.2 and Rs.1,000/- each to respondent Nos.3 and 4 respectively.

3. The learned Magistrate, by the order dated 03.07.2017, awarded maintenance of Rs.7,500/- to respondent No.3 and Rs.2,500/- each to respondent Nos.3 and 4 from the date of filing of Maintenance Case. Thus, the award far exceeds the amount claimed by respondent Nos.2 to 4 as petitioners.

4. The reason assigned by the learned Magistrate finds place in paragraph No.10 of the order under challenge. The relevant portion reads thus:

“ .. .. It has to be considered that prices of all the essential commodities and also the living standards of the people have gone to hike as such I felt it is reasonable to award the maintenance as sought by the petitioner in the application. Though the petitioner

sought Rs.2500/- to her and Rs.1,000/- each to the petitioner No.1 and 2 in her application, in view of the hike in the salary of the respondent and also in view of the present day prices for the essential commodities I am of the view that it is essential to increase the maintenance more than the requisition of the petitioners in their application since this petition was filed in the year 2008 which is almost 9 years ago on considering the evidence and also the increase of salary of the respondent. It is further argued by the learned counsel for the petitioner that in the present circumstances the first petitioner has to spend heavy amounts for the education of her children and also for bringing them up. Therefore, I am of the opinion that the first petitioner is entitled to a sum of Rs.7,500/- to the petitioner No.1 and Rs.2500/- each to the petitioner No.2 and 3 from the date of filing of the petition. Accordingly this point is answered in favour of the petitioner No.1 and as against the respondent.”

5. It appears, the only ground urged by the learned counsel for the revision petitioner is that it is impermissible for the learned Magistrate to travel beyond the claim made by respondent Nos.2 to 4.

6. Sri E.V.V.S. Ravi Kumar, learned counsel for respondent Nos.2 to 4, would not oppose the said submission.

7. In case, there has been delay of more than nine years in disposing of maintenance case, respondent Nos.2 to 4 seeking maintenance are at liberty to seek enhancement by filing an independent application under the provisions of the Code of Criminal

Procedure, 1973. This apart, it is strange that the revision petitioner did not approach the Sessions Court having jurisdiction to try the case and directly approached this Court. In fact, the present revision case has undergone three adjournments by now. Hence, instead of directing the Registry to return it, taken up for disposal at the admission stage itself.

8. It is thus explicit that the learned Magistrate travelled beyond the scope of the request made by respondent Nos.2 to 4 herein warranting interference.

9. In view of the fact that the trial Court while traveling beyond the scope of the request made by respondent Nos.2 to 4 herein even without referring to the source of income as well as monthly earnings or annual earnings, just vaguely awarded the maintenance amount observing that cost of living in the present days would be the indication to grant such amounts is patently illegal.

10. Therefore, the monthly maintenance of Rs.7,500/- awarded by the learned Magistrate to respondent No.2 is reduced to Rs.2,500/- (Rupees two thousand five hundred only), and Rs.2,500/- awarded towards monthly maintenance to respondent Nos.3 and 4 each is reduced to Rs.1,000/- (Rupees one thousand only) each. It is made clear that respondent Nos.2 to 4 are at liberty to seek enhancement by resorting to appropriate proceedings.

11. With the above directions, the present Criminal Revision Case is partly allowed modifying the order under challenge, at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision stand closed.

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**A. SHANKAR NARAYANA, J**

**November 21, 2017.**

**PV**

