

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2316 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed questioning the propriety and legality of the order, dated 16.05.2017, in M.C.No.117 of 2014 on the file of Judge, Family Court, Ranga Reddy District at L.B.Nagar, awarding maintenance of Rs.3,000/- per month to the first petitioner and Rs.2,000/- per month to the second petitioner.

2. For the sake of convenience, the parties will be referred to, as they arrayed before the trial Court.

3. The petitioners filed a petition under Section 125 Cr.P.C., seeking maintenance from the respondent alleging that the marriage of the first petitioner with the respondent was performed on 18.11.2010 as per Hindu rites and caste customs. At the time of marriage, her parents gave an amount of Rs.5,00,000/- as dowry besides presentation of 20 tulas of gold silver articles worth Rs.3,00,000/- and an amount of Rs.1,00,000/- towards Adapaduchu Katnam. After the marriage, the first petitioner joined the respondent to lead marital life and they lived happily for some time. During their lawful wedlock, they were blessed with a child, the second petitioner.

The respondent is working as Technician in Railways at Mumbai. On 31.12.2012 the respondent came to Hyderabad along with the first petitioner and demanded the parents of the first

petitioner to adjust an amount of Rs.3,00,000/- for his personal necessities. The parents of the first petitioner arranged the said amount with a hope that he would look after her daughter well. Later, the respondent was transferred to Hyderabad. Again on 15.01.2014, the respondent and his mother went to the parents house of first petitioner and demanded an amount of Rs.3,00,000/- as additional dowry, but they expressed their inability to fulfil the illegal demand made by the respondent. They beat the petitioner with a demand to bring additional dowry of Rs.10,00,000/- and necked her out from the house along with the child on 24.04.2014. Having no other alternative, she went to her parents' house and living with them. The respondent is working as Technician and earning sufficient income, whereas the petitioners have no means to live.

4. The respondent filed counter denying the material allegations while admitting his employment and transfer from one place to another. He also denied the allegation of driving out the petitioners from the house on 24.04.2014 after beating the first petitioner. The first petitioner is working as L.I.C. Agent for the last several years and getting sufficient income; that she has been harassing the respondent at the instance of his parents and forced him to get transfer from Mumbai against his wish; that the first petitioner filed a false case against him before Uppal Police Station and after mediation, she withdrew the said complaint. It is further stated that the first petitioner demanded respondent to obtain loan from the office to purchase household articles worth Rs.3,00,000/- It is further stated that she again lodged a complaint with Upapl Police Station against the respondent for the offence punishable

under Section 498-A IPC and Section 4 of the Dowry Prohibition Act, who in turn arrested him and she deliberately got assaulted him in the police station. It is further stated that she went to the house of respondent and beat his old age parents and took away all the household articles and movable properties from his house and thereafter, she approached State Human Rights Commission and gave a complaint against the respondent. The Human Rights Commission directed the Assistant Commissioner of Police, Malkajgiri Division to take up investigation and file report. Thus, she foisted a false case against the respondent and hence, prayed to dismiss the petition.

5. During enquiry, on behalf of the petitioners, P.W.1 was examined and Exs.P.1 to P.6 were marked. On behalf of respondent, R.Ws.1 and 2 were examined, but no documents were marked.

6. Upon hearing argument of both counsel, the trial Court awarded maintenance of Rs.3,000/- per month to the first petitioner and Rs.2,000/- per month to the second petitioner as the respondent neglected and refused to maintain them.

7. Aggrieved by the said order, the present revision case is filed on various grounds, mainly contending that the trial Court failed consider the income of the respondent; that the trial Court did not consider the admission made by the first petitioner to leave the parents of the respondent and live separately and prayed to allow the revision case.

8. During hearing, learned counsel for the petitioner-respondent contended that the amount awarded towards maintenance is excessive since the respondent has to maintain his old aged parents and other members of the family besides payment of rent to the house, which he occupied and requested to reduce the maintenance.

9. Undisputedly the respondent married the first petitioner and during their lawful wedlock they were blessed with a child, who is the second petitioner. So far as the second petitioner is concerned, the respondent is bound to maintain her, who is aged about two years on the date of filing of maintenance case in the year 2014. Now, the child is aged about five years old. Therefore, granting maintenance in favour of the second petitioner cannot be avoided since the child requires more than Rs.2,000/- per month now-a-days for maintenance and it is not excessive.

10. So far as granting of maintenance to the first petitioner is concerned, it is evident that she was neglected and refused to be maintained by the respondent. Though the respondent contended that the first petitioner is working as LIC agent and earning amount, no piece of evidence is filed before the trial Court to believe that she has got independent source of income to maintain herself. In the absence of any material on record, this Court cannot accept the contention of learned counsel for the petitioner (husband) about the independent source of income of the 1st respondent (wife). The other contention raised before this Court is that there is no wilful negligence on the part of the respondent to neck out the petitioners from the house. But, the evidence of P.W.1

coupled with the evidence of R.W.1, clinchingly established that the respondent neglected and refused to maintain the petitioners and when the petitioners were necked out for her failure to meet the illegal demands of dowry, the first petitioner is living with her parents is justifiable as she is not expected to live with the respondent. The Apex Court in **Sirajmohmedkhan Janmohamadkhan v. Hafizunnisa Yasinkhan and another**¹, held that the wife is tortured by her husband for demand of additional dowry or she has reasonable apprehension arising from the conduct of the husband that she is likely to be physically harmed due to persistent demands of dowry from her husband's parents or relations, such apprehension also would be manifestly a reasonable justification for the wife's refusal to live with her husband. Therefore, by following the principle laid down in the above Judgment, there is any amount of justification for separate living of the first petitioner along with her parents when she was necked out from the house and filed a criminal case, the contention that there is no justifiable cause for her separate living as contended by counsel for the respondent, holds no substance.

11. The respondent is working as Technician in Railways and his income is supported by Ex.P.6. Therefore, the amount awarded to the first petitioner @ Rs.3,000/- per month is just and reasonable taking into consideration the present price index cost of living, as she is expected to lead the same standard of life, which she lead while staying with the respondent. Therefore, I find no illegality or irregularity in the order passed by the trial Court warranting

¹ AIR 1981 Supreme Court 1972

interference of this Court. Hence, the Criminal Revision Case is liable to be dismissed.

12. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this revision case shall stand closed.

M. SATYANARAYANA MURTHY, J

AUGUST 21, 2017

YVL



THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 21.08.2017

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