

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.1374 of 2017

JUDGMENT:

The present Criminal Revision Case is preferred by the respondent-husband in M.C. No.3 of 2015 on the file of Judge, Family Court-cum-IX Additional District & Sessions Judge, Rajamahendravaram, East Godavari District, aggrieved by the order of awarding monthly maintenance of Rs.7,500/- each to the petitioners 2 and 3 therein, who are the daughter and son respectively of the revision petitioner and the 2nd respondent, under Sections 391 and 401 of the Criminal Procedure Code, 1973 (for short, 'Cr.P.C.').

2. The learned Judge, Family Court, declined to grant monthly maintenance to the wife, 2nd respondent herein, on the ground that she worked as Software Professional at Hyderabad and Bangalore in India; Chicago and California in U.S.A., and, sufficiently earned and cannot be believed that she is unable to maintain herself.

3. Heard Sri Y. Ashok Raj, learned counsel for the petitioner. The present Criminal Revision Case is disposed of at the admission stage itself.

4. Since the learned Judge, Family Court, did not grant monthly maintenance to the wife, who was constrained to live separately pales into insignificance. The only moot point that arises

for consideration is, whether the monthly maintenance of Rs.7,500/- to each of the respondents 3 and 4 can be sustained.

5. The learned counsel for the revision petitioner would submit that the learned Judge, Family Court, somehow went wrong in awarding the amount of Rs.7,500/- each to the daughter and son respectively despite the respondents 2 to 4 failing to prove that the revision petitioner has got sufficient means to provide such huge monthly maintenance.

6. It is also his submission that the parents of the revision petitioner are aged and suffering with various ailments and in fact the mother of the revision petitioner is suffering with kidney malfunctioning and certain reports are filed along with material papers in the present Criminal Revision Case.

7. A perusal of the order passed by the learned Judge would clearly indicate that the father of the revision petitioner worked as a Scientist and retired from N.G.R.I., at Hyderabad and also having fixed assets, got pension and, therefore, held that they were not depending on the revision petitioner. The learned Judge, Family Court, also observed that the evidence of the revision petitioner would clearly indicate that he owns an independent house standing in his name at Nagloe, Hyderabad, and his parents are having separate independent house at Nagole, Hyderabad, beside the house of the revision petitioner and basing on certain admissions made by R.W.1.,

he arrived at the conclusion that the parents of the revision petitioner are not dependents on him. These findings recorded by the learned Judge, Family Court, cannot be faulted as it is based on proper appreciation of evidence on record.

8. Turning to the maintenance awarded to the children, it is not in dispute that they are in the custody of their mother. Concerning the stand of the revision petitioner that he was not doing any job and he is sitting idle was not believed by the learned Judge. The learned Judge observed that it is not only a legal duty but also moral duty to maintain and take care and welfare of the children and opined that it is reasonable to direct the revision petitioner to pay Rs.7,500/- each to both children in view of the family status, soaring price index, spiralling prices of articles of daily consumption and present cost of education to the minor children.

9. A perusal of the medical reports would show that creatinine is within the normal range and, therefore, the ailment referred to by the learned counsel so far as mother of the revision petitioner is concerned cannot be believed and accepted. Further, these documents were not filed and brought on record in the Maintenance Case. It is specifically mentioned in paragraph-7 of the order in the Maintenance Case that the revision petitioner and herself were employed in U.S.A. and initially she lost her job and thereafter, the revision petitioner lost his job for his irresponsible behaviour.

10. Therefore, it cannot be said that the revision petitioner is sitting idle without any avocation or profession. It appears only with a view to evade his liability to pay maintenance he has come up with the stand as he is an 'unemployee' and he has no means to pay the monthly maintenance to the respondents 2 to 4. It is not uncommon that it would be too difficult for the wife to go around and secure the documents by making enquiries as to employment of the revision petitioner.

11. Thus, when viewed, in the facts and circumstances, the order passed by the learned Judge, Family Court, does not suffer from any legal infirmity much less can the reasoning adopted be construed as patently perverse warranting interference.

12. There is no merit in the present Criminal Revision Case, and, is, accordingly, dismissed.

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

A. SHANKAR NARAYANA

Dt. 05.12.2017

gbs