

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE (S.R.) No.48957 of 2015

AND

CRIMINAL REVISION CASE No.3346 of 2015

COMMON ORDER :

Aggrieved by the order dated 11.02.2010 in M.C.No.86 of 2008 passed by the Judge, Family Court-cum-III Additional District Judge, Warangal, CrI.RC.(S.R.) No.48957 of 2015 is filed by the respondent in M.C. with a delay of 1931 days vide CrI.MP.No.195 of 2016. CrI.R.C.No.3346 of 2015 is also filed by him, aggrieved by the order dated 05.10.2015 in CrI.M.P.No.181 of 2015 in the said M.C.

Before going to the merits of CrI.R.C.No.3346 of 2015, so far as delay condonation application in CrI.MP.No.195 of 2016 of 1931 days to entertain the un-numbered revision in CrI.RC.(S.R.) No.48957 of 2015, there are no merits, thereby the delay condonation application is dismissed and the un-numbered revision is rejected, without prejudice to the other available contest under law but for not open to the maintenance liability and if at all only on the quantum.

In view of the findings supra and also irrespective of order dated 16.08.1995 in M.C.No.6 of 1993, the learned IV Additional Munsif Magistrate, Warangal, held, by then as wife getting daily earnings and able-bodied, there was no negligence or refusal even proved by then, not entitled to the claim, that it is not a bar, much less, operates as *resjudicata*, for future inability to claim otherwise, rightly considered by the lower Court, in the subsequent

proceedings in M.C.No.86 of 2008 filed by her, in awarding Rs.3,000/- p.m. out of the claim of Rs.5,000/- p.m. vide order dated 11.02.2010, to which, he was a party, undisputedly, from which no revision is maintained. However, coming to the enhancement order from Rs.3,000/- to Rs.8,000/-p.m. out of the claim of Rs.10,000/- by the impugned order in CrI.MP.No.181 of 2015 in M.C.No.86 of 2008 dated 05.10.2015, it is not in dispute by both sides that the revision petitioner attained superannuation during pendency of the said CrI.MP. and he is only a pensioner, since 2016.

Having regard to the above and the certificate dated 03.10.2016 issued by the National Institute of Technology, Warangal, clearly shows the pension of the revision petitioner is Rs.14,736/- p.m. Hence, this Court feels that instead of Rs.8,000/- p.m., Rs.5,000/- p.m. is the just amount of maintenance, even by taking into consideration subsequent event of pending petition, covered by the impugned order, before the lower Court, he attained superannuation and he is a pensioner thereafter.

Accordingly, the Criminal Revision Case is partly allowed by reducing the amount of maintenance granted by the lower Court from Rs.8,000/- p.m. to Rs.5,000/- p.m.,

Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:20-02-2017

pab