

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2814 OF 2016

ORDER:

The revision petitioner is the husband of the revision 1st respondent. She maintained D.V.C.No.07 of 2015 before the learned Judicial First Class Magistrate, Special Mobile Court, Eluru. The learned Magistrate, by order dated 30.12.2015, directed to return Rs.5,00,000/-, alleged dowry amount and also to pay Rs.10,000/- per month towards maintenance out of the monetary reliefs. Impugning the same, the husband maintained CrI.A.No.53 of 2016. The lower appellate court, by judgment dated 06.10.2016, set aside the order of return of the Rs.5,00,000/-, however, enhanced the maintenance from Rs.10,000/- to Rs.20,000/- per month. Impugning the said order of the lower appellate court, the present revision is filed.

2. Heard both sides and perused the material on record.
3. Even it is his admission in the cross-examination, as referred from Para 21 of the order of the learned magistrate, that while he was in U.K., from his qualification of B.Tech, M.B.A., he was earning about Rs.80,000/- per month. He claimed that he is earning Rs.40,000/- per month in India. There is an observation by the trial magistrate that his

earnings are more than Rs.40,000/- atleast even anywhere in India.

4. In fact, under Section 106 of the Evidence Act, the burden is on him to produce the best evidence available with him as to what is his salary. It is not even his case that he is not working anywhere. Once such is the case, having suppressed his means, there is reasonable conclusion the court can arrive from said admissions of he was earning Rs.80,000/- while in U.K. P.W.1 to claim as earning Rs.50,000/- per month, there is no proof as concluded by the lower court. However, even taking the same into consideration, Rs.20,000/- per month is onerous, thereby reduced to Rs.15,000/- per month. In other respects order of the lower appellate court holds good.

5. Accordingly revision is allowed in part. Miscellaneous petitions pending, if any, in this case shall stand closed.

DR.B.SIVA SANKARA RAO, J

12.04.2017
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