HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2830 OF 2017

JUDGMENT:

The Present Criminal Revision Case is preferred by the petitioners, who are the wife and children of the 1st respondent-husband, on the ground that the enhancement granted by the Judge, Family Court, Rangareddy District at L.B. Nagar, in Criminal M.P. No.1645 of 2011 in M.C. No.163 of 2009, by order dated 30.06.2017, is totally inadequate besides depriving the petitioner No.1-wife of her right to seek enhancement of maintenance amount.

2. Originally, in M.C. No.163 of 2009 they were granted monthly maintenance of Rs.5,000/- so far as the 1st petitioner is concerned and Rs.2,500/- each to the petitioners 2 and 3, and thereafter, the aforesaid Criminal M.P.No.1645 of 2011 was filed seeking enhancement under Section 127 (1) of Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') . During enquiry, the 1st petitioner examined herself as P.W.1 and marked Exs.P1 and P2, which are Bunch of school receipts and Form-26 of Income Tax Department relating to the 1st respondent. The 1st respondent-husband himself examined as R.W.1 and Exs.R1 to R8 are marked, which are pay slips; school fee receipts; Original Health Insurance Cards; Bank Loan Statements; Insurance Policies; Medical Bills and prescriptions; bunch of train and bus tickets; bunch of lodge bills.

3. The learned Judge, Family Court, opined that the amount of Rs.5,000/- already granted towards monthly maintenance of the 1st petitioner need not be enhanced for the reason she has been practicing as junior advocate and well educated having professional skills and practice and thereby rejected her request. Concerning the petitioners 2 and 3, as against Rs.2,500/- earlier granted, enhanced it to Rs.3,500/- each.

4. Heard P. Vijaya Lakshmi, for Sri K. Chaitanya, learned counsel for the petitioner.

5. Despite service of notice as per the postal acknowledgement filed in USR No.7963 of 2017 the 1st respondent-husband has not entered appearance.

6. Certain facts are undisputed. The petitioners 2 and 3 are aged now 13 years and 12 years respectively, and it is clear that they have been pursuing their school education. The 1st respondent–husband is working as Manager (Mechanical), in M/s. Soma Enterprises Limited, Banjara hills, Hyderabad. Ex.P2 is the Form-26 of Income Tax Department filed and marked by P.W.1, which was issued by the Deputy Commissioner of Income Tax, Circle-15 (1), Hyderabad, dated 8.10.2014, showing the total amount paid by him by employer for the financial years from 2010-11 to 2013-14 are at Rs.9,67,535/-, Rs.14,43,640/- Rs.12,34,200/- and Rs.11,51,920/- respectively. The total tax deductions were shown at Rs.79,075/-,

Rs.1,77,602/-, Rs.1,43,636/- and Rs.1,07,187/- respectively. If these deductions and other statutory deductions are excluded, the net salary derived by him would be somewhere at least between Rs.70,000/- and Rs.90,000/- per month or even Rs.1,00,000/-. Of course, he has filed pay slip.

7. So, when kept in view the factors, that the income of the 1st petitioner is not borne out from the record she cannot be deprived of enhancement. Nothing is also brought out in her cross-examination to show that she was earning adequate income and suppressing the income.

8. The learned counsel for the petitioner would submit that she is a fresh practitioner and not earning any amount. However, keeping in view, the income derived by the husband, it would be reasonable to grant Rs.10,000/- by way of enhancement from Rs.5,000/- earlier awarded by setting aside the finding recorded by the learned Judge, Family Court in refusing to grant enhancement so far as the 1st petitioner is concerned. Concerning the petitioners 2 and 3, the amount of Rs.3,500/- each granted as against Rs.2,500/- by way of enhancement is also made to Rs.5,000/- each from Rs.3,500/- now granted by the Court below, by way of enhancement. The respondent-husband is directed to pay the total sum of Rs.20,000/- as indicated in the above.

9. The Criminal Revision Case is partly allowed at the admission stage itself, as indicated in the above.

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

A. SHANKAR NARAYANA, J

Dt. 12.12.2017
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