

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE NO.2590 OF 2016

ORDER:

This revision is filed under Sections 397 and 401 Cr.P.C. assailing the judgment, dated 26-09-2016 in CrI.A.No.70 of 2016 on the file of the IX Additional District and Sessions Judge, Wanaparthy, Mahabubnagar District, questioning the propriety, legality and regularity of the order passed by the appellate Court for granting maintenance to the 2nd respondent-aggrieved person.

2. For the sake of convenience, the parties hereinafter will be referred to as they were arrayed before the trial Court in DVC No.8 of 2014.

3. Petitioner (wife) filed the above DVC on the file of the Judl. Magistrate of I Class, Wanaparthy under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for brevity 'the Act') claiming several reliefs including the relief of maintenance. The allegation is that she was subjected to domestic violence by denying maintenance, which is an economic abuse under Section 3, Explanation I to clause (iv) of the Act and therefore, she sought for various reliefs including grant of maintenance.

4. The 1st respondent (husband) denied the liability to pay maintenance and domestic violence.

5. The trial Court disbelieved the contention of the 1st respondent and recorded a fact finding in para 9 of the order that the petitioner was subjected to domestic violence and awarded maintenance at the rate of Rs.6,000/- per month. Aggrieved by the said order, the 1st respondent filed the appeal and the 1st appellate Court, vide impugned

judgment, dismissed the appeal confirming the order of the trial Court in granting maintenance. Aggrieved thereby, the present revision is filed by the 1st respondent.

6. The main ground urged by the 1st respondent is that the petitioner does not fall within the definition of aggrieved person and that she failed to prove domestic violence, that the trial Court and the appellate Court did not record any specific finding with regard to economic abuse as defined under Section 3, Explanation I to clause (iv) of the Act and therefore, the order is illegal and is liable to be set aside.

7. During the course of hearing, Mr.T.D.Phani Kumar, learned counsel appearing for the 1st respondent (petitioner herein/husband) limited his argument to the finding recorded by the trial Court and the appellate Court and that the petitioner is not an aggrieved person. Whereas, learned counsel appearing for the petitioner (2nd respondent herein-wife) supported the findings in all respects and prayed for dismissal of the revision.

8. The first and foremost ground raised by the learned counsel for the 1st respondent (husband) is that the petitioner (wife) is not the aggrieved person within the definition of Section 2 (a) of the Act. As per Section 2 (a) of the Act “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. Here the 2nd respondent is the wife of the petitioner. Whether she was subject to domestic violence or not is a question to be decided. The trial Court in para 9 of the order specifically recorded fact finding that the petitioner did not provide any maintenance to her though he

is under obligation to maintain and thereby it would attract economic abuse and awarded maintenance. This finding would disclose that the aggrieved person was subjected to domestic violence. When the Court recorded a finding that she was subjected to domestic violence, she would fall within the definition of aggrieved person under Section 2 (a) of the Act. Therefore, this contention holds no substance and thereby, it is rejected.

9. The other ground raised by the learned counsel for the 1st respondent (husband) is that no finding was recorded by the trial Court and appellate Court with regard to subjecting the petitioner (2nd respondent herein-wife) to domestic violence. Domestic violence is defined under Section 2 (g) of the Act as the domestic violence has the same meaning as assigned to it in Section 3. Section 3 of the Act deals with definition of domestic violence. But *prima facie* the issue is only with regard to economic abuse, which is covered by Section 3, Explanation I to clause (iv) of the Act. "Economic abuse" includes deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom. Therefore, the definition of Domestic Violence includes any act, omission or commission or conduct of the respondent shall constitute domestic violence in certain circumstances. It includes physical abuse, sexual abuse and verbal and emotional abuse covered by various types of abuses under Explanation I. The trial Court recorded a specific finding that she was subjected to domestic violence and granted monetary relief under Section 20 (1) (d) of the Act. Therefore, the said fact finding does not call for interference of this Court while exercising jurisdiction under Sections 397 and 401 Cr.P.C. since it is limited. This Court cannot

normally interfere with the fact finding unless there is manifest perversity or apparent error in the findings recorded by the trial Court and the appellate Court, but no such perversity or error is found in the findings recorded by the Courts below and hence, it is difficult for me to interfere with the findings recorded by both Courts below, the revision is devoid of merits and is liable to be dismissed.

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

DATED: 02-08-2017.
Hsd

M.SATYANARAYANA MURTHY, J

