

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2806 OF 2017

JUDGMENT:

The revision petitioner is the respondent in Maintenance Case No.3 of 2016 on the file of Judge, Family Court-cum-VII Additional District & Sessions Judge, Medak at Sangareddy. Challenging the order dated 30.12.2016, granting Rs.2,000/- and Rs.5,000/- to the petitioners 1 and 2 respectively, towards their monthly maintenance, the present Criminal Revision Case is preferred under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.').

2. Before the Court below, petitioner No.1 herself examined as PW.1 and marked Exs.P-1 to P-4, which are Wedding Card, Marriage Photographs, Pahanies numbering ten and Four receipts in order to prove the respondent in Maintenance Case, who is her husband, owns agricultural land and has got sufficient means to pay the maintenance sought for by her, in fact, the petitioner sought a sum of Rs.5,000/- each towards their monthly maintenance under Section 125 of Cr.P.C.

3. The learned Judge, Family Court, holding that the petitioners are entitled to separate living though, petitioner No.1 is a postgraduate in Master of Arts (Public Administration) and the respondent-husband studied upto X-Class or Intermediate, and since

she is working and getting honorarium of Rs.9,000/- and since the respondent admitted that he owns four acres of agricultural land and ten acres of land standing in the name of his father, who is a retired Teacher and Pensioner, awarded the aforesaid amounts.

4. Heard Sri P. Srihari Nath, learned counsel for the revision petitioner-husband and Smt. N. Srushman Reddy, learned counsel for the respondents 1 and 2.

5. Learned counsel for the petitioner would submit that despite the fact that petitioner No.1-wife is working and earning Rs.9,000/- per month, granting Rs.2,000/- towards her monthly maintenance awarded by the Court below is wholly inappropriate. Concerning the monthly maintenance amount awarded to the 2nd petitioner-child at Rs.5,000/- per month, learned counsel would submit that the 2nd petitioner is only 12- year-old and a student and would not require that much amount and her mother can take care as she gets more when compared to the father, who is just depending on small extent of agricultural land. In fact, he would submit that the husband has no permanent source of income and he owns only one acre of land, and, therefore, sought either to set aside or to reduce the monthly maintenance awarded by the Court below.

6. It is true, as could be seen from the findings recorded by the Court below, wife admitted that she was working on temporary

basis as Telugu Typist in District Cooperative Bank at Sangareddy and getting honorarium of Rs.9,000/- per month.

7. There is a categorical admission made by PW.1 in her cross-examination that she was appointed as Telugu Typist in District Co-operative Bank, Sangareddy, and drawing honorarium of Rs.9,000/- per month. Learned counsel for the revision petitioner would submit that PW.1 suppressed this fact while mentioning the averments in the Maintenance Case and only when she was confronted in her cross-examination, she made such an admission and, therefore, she is not entitled for award of any maintenance.

8. When her unequivocal admission stands on record as to getting honorarium of Rs.9,000/-, certainly, it cannot be said that she was unable to sustain herself irrespective of the fact whether she deliberately suppressed or was not employed by then or for any other reason in not making a mention about it in the Maintenance Claim petition. So, award of maintenance at Rs.2,000/- to the 1st petitioner – wife is hereby set aside. However, the amount of Rs.5,000/- awarded towards monthly maintenance to the 2nd petitioner, who is aged 11 years as on the date of filing Maintenance Case, where she requires to meet the education expenses, besides medical expenses, if any, and towards other essential items, is maintained.

9. Thus, the present Criminal Revision Case is partly allowed setting aside the award of monthly maintenance of Rs.2,000/- to the 1st respondent/petitioner No.1-wife, while maintaining monthly

maintenance of Rs.5,000/- to the 2nd respondent/petitioner No.2-child.

Parties shall bear their own costs.

Two months' time is granted for making payment of the entire arrears concerning the monthly maintenance of Rs.5,000/- awarded to the 2nd petitioner-child in Maintenance Case.

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

December 27, 2017.
gbs

A. SHANKAR NARAYANA, J

