

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3190 OF 2017

JUDGMENT:

The present Criminal Revision Case is filed by the respondent - husband in M.C. No.198 of 2014 on the file of the learned Judge, Family Court, Ranga Reddy District at L.B. Nagar, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code').

2. Heard Dr.B. Manoj Kumar, learned counsel for the revision petitioner.

3. The present Criminal Revision Case is taken up for disposal at the admission stage itself having opined that there is no necessity to issue notice to respondent No.1 - wife.

4. For the sake of convenience, the revision petitioner – husband and respondent No.1 - wife, are hereinafter referred to as 'husband' and wife'.

5. By the order, dated 31.08.2017, in M.C. No.198 of 2014 filed by the wife under Section 125 of the Code, the learned Judge, Family Court awarded monthly maintenance of Rs.5,000/- to her. Aggrieved over the same, the present Criminal Revision Case is filed by the husband.

6. Before the learned Judge, wife examined herself as PW.1, besides examining one Param Jyothi as PW.2 and marked Exs.P-1 to P-4, which are wedding invitation card, wedding photographs, marriage certificate and election identity card. Whereas, the husband examined himself as RW.1, but no documents were filed.

7. The main submission of the learned counsel appearing on behalf of the husband is, that the wife has got Doctorate as she did P.hd., and at the time of marriage and subsequent thereto, she worked in Gowthami Nursing College, Hayathnagar, as a lecturer, drawing Rs.14,000/- per month and also as Assistant Pastor in Millennium Church, Chengicherla, and earning Rs.6,000/- per month and she is better educated with higher qualifications compared to husband and she can easily secure job and having made such an observation by the learned Judge, still, directed the husband to pay a monthly maintenance of Rs.5,000/-, despite the fact that the husband is not employed at all and not doing any job and, therefore, the order under challenge is illegal and requires to be set aside.

8. The learned Judge having referred to the evidence of PWs.1 and 2 and RW.1 and having also referred that PW.1 was working as a lecturer in Gowthami Nursing College earlier, but, however, found that she was an un-employee on the date of filing the petition. Though, she has qualifications, experience and able to secure employment, since she was not employed on the date of petition as

well as pending the proceedings, she cannot be deprived of monthly maintenance as the husband has got legal and marital duty to pay the maintenance to support her when the desertion was not voluntary on the part of the wife. So far as the husband is concerned, according to him, he was earning by doing a private job. There has been evidence on record that the husband demanded his father-in-law to get Rs.5,00,000/- and even warned the wife to come with the said amount if she intends to lead family life with him or to give divorce, and when she went to her in-laws house on 25.05.2012, to secure the certificates belonging to her, the husband and his mother, his brother and others attacked her and abused her and necked her out of the house.

9. During the course of arguments, when a question is put, the learned counsel would fairly state that there is no evidence to show that the wife was working or employed on the date of filing the petition or during the pendency of the proceedings in M.C. and, in fact, no material is filed by the husband to show that she was employed at any time after the M.C. was filed. Her case has been that, she was mentally disturbed due to physical and mental harassment to which she was subjected and unable to work and maintain herself. The finding recorded by the learned Judge that she was compelled to live away from the husband cannot be faulted. Even the finding directing the husband to pay Rs.5,000/- per month towards maintenance cannot also be faulted. It cannot be said that the

husband is not at all doing any job. He does not disclose in his evidence or in his counter about his earning source except stating that he is not doing any job and unable to earn while attributing to the wife that she is more educated and can secure job. It is no doubt true, at one place the husband stated that he was removed from the Outsourcing Job from S.R.S.P., Tarnaka, as he was implicated in the proceedings under Section 498-A IPC and even remanded for (14) days on the complaint lodged by the wife for the said offence, but, certainly, it is difficult to believe that he is an un-employee and not earning any amount. In the evidence, it has come up that the wife has also filed domestic violence case, but, however, the proceedings were not concluded as there is no indication as to disposal of the DVC. Thus, when examined the findings recorded by the learned trial Judge in the light of the evidence let in by the parties, certainly, they are based on appreciation of evidence supported by process of reasoning and do not warrant interference. There is no merit in the Criminal Revision Case.

10. The Criminal Revision Case is, therefore, dismissed at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the criminal revision case, stand closed.

A. SHANKAR NARAYANA, J

December 12, 2017.

Mgr