

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3165 OF 2017

ORDER:

Dissatisfied with the award of monthly maintenance at Rs.2,000/- per month and Rs.1,000/- per month to petitioner Nos.1 and 2, respectively, payable by respondent No.2 on or before 5th of every succeeding month, by order, dated 18.09.2017, in M.C.No.8 of 2017 on the file of Judge, Family Court, Nizamabad, as against the claim of Rs.15,000/- per month to each of them, the present Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is preferred by the wife and son of respondent No.2 requesting to enhance the maintenance amount.

2. Heard Sri A. Jagan, learned counsel for the petitioners.

3. This Court, by order, dated 11.12.2017, ordered notice before admission to respondent No.2. Though, proof of service is filed, annexing thereto the postal acknowledgement containing the signature said to be that of respondent No.2 – husband, none appears for him.

4. In fact, before the Court below also, respondent No.2 remained *ex parte*, as could be seen from paragraph No.3 of the order, which is now questioned in this revision case on the ground of inadequacy of monthly maintenance granted by the Court below.

5. What all the documents filed by the petitioners are Ex.P1 – Wedding Card and Ex.P2 – Wedding Photographs. Besides the same, petitioner No.1 examined herself as PW.1.

6. Though, the petitioners claim that respondent No.2 is working as a civil contractor at Hyderabad and learned counsel for the petitioners would also contend that respondent No.2 is taking contract works of GHMC, but no documentary proof is filed to substantiate the same or to arrive at just conclusion what would be the just and reasonable monthly maintenance that could be awarded as against the claim made by the petitioners. However, when, kept in view, the amounts awarded by the Court below at Rs.2,000/- and Rs.1,000/- per month to petitioner Nos.1 and 2, respectively, it is totally inadequate, as it is too difficult to meet both ends by the petitioners. When respondent No.2 – husband, deliberately avoided to attend the Court, despite service of notice before the Court below as well as this Court, it has to be presumed that what has been stated by the petitioners in the application for maintenance as true or atleast reasonably correct. When, kept in view, the same, it is just and reasonable to award Rs.5,000/- per month towards maintenance to each of the petitioners as against Rs.2,000/- per month and Rs.1,000/- per month awarded by the Court below.

7. Accordingly, the Criminal Revision Case is allowed in part. The monthly maintenance amount awarded by the Court below at

Rs.2,000/- per month and Rs.1,000/- per month to petitioner Nos.1 and 2, respectively, is enhanced to Rs.5,000/- per month to each of the petitioners. The maintenance amount now enhanced shall be paid from the date of filing of M.C.No.8 of 2017.

Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

December 27, 2017.
MD

