

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1899 of 2017

JUDGMENT:

The respondent-husband in Maintenance Case No.150 of 2011 on the file of Judge, Family Court, at L.B. Nagar, R.R. District is the present revision petitioner. He challenges the order dated 31.12.2015 whereby and whereunder the learned Judge, Family Court, allowed the Maintenance application filed under Section 125 of the Criminal Procedure Code, 1973 (for short, 'the Code') by the respondents 1 to 3, being wife and children, awarded Rs.5,000/- each towards monthly maintenance from the date of order.

2. Heard Smt. N.V.R. Rajya Lakshmi, learned counsel for the revision petitioner and though, the respondents 1 to 3 entered appearance, but there was no representation despite adjourning the case for tendering arguments twice. Hence, posted for orders to dispose of the same on merits at the admission stage itself.

3. The main submissions of the learned counsel for the revision petitioner have been, firstly, that earlier compromise was recorded between the parties in D.V.C. filed an application by the respondent No.1, and even the revision petitioner filed an application for restitution of conjugal rights and the matter was settled before the Lok Adalat on 9.6.2009, and despite the same the 1st respondent left his society without any reasonable cause, and, therefore, the

respondents are not entitled to any maintenance, but the Court below overlooked these facts.

4. His second submission is that the respondent has no means to pay the maintenance amount and he became idle giving up his job on account of criminal proceedings initiated against him by the 1st respondent-wife.

5. It is also according to him that the revision petitioner owns Ac.1-04 cents of land, and, therefore, the learned Judge, Family Court, was not right in awarding monthly maintenance to the respondents 1 to 3, that too at the rate of Rs.5,000/- to each petitioner.

6. The 1st petitioner-wife examined herself as P.W.1, and, in fact examined her father, P. Kotaiah, as P.W.2 and one S. Chinna Atchaiah as P.W.3 and marked Exs.A-1 to A-16. The revision petitioner-husband himself examined as R.W.1, but he has not examined any other witness and no documents are filed by him.

7. Now, the short question that arises for consideration is whether the respondents 1 to 3 are entitled to maintenance, and, if so, whether the monthly maintenance awarded by the Court below at Rs.5,000/- each, cannot be sustained.

8. The order would clearly indicate that though the parties, earlier, settled the dispute before Lok Adalat on 9.6.2009 and lived together for sometime, but in view of the fact that there was no change

in the attitude of the revision petitioner towards respondents 1 to 3; and the brother of the revision petitioner, who has been working as Gunman at City Security Wing, threatened the 1st respondent-wife with dire consequences, abusing her in filthy language and also questioning her character, which was also resorted to by the revision petitioner and even the revision petitioner was also questioning her character and subjecting her to cruelty for not meeting the demand of additional dowry are all sufficient to cull out that there has been reasonable cause for the respondents 1 to 3 to demand separate residence. Therefore, it cannot be said that the respondent No.1 voluntarily left the society of the revision petitioner, but she was driven out from his house by the revision petitioner and his brother. Therefore, that finding recorded by the learned Judge, Family Court, cannot be upset as it is based on appreciation of evidence on record, more particularly, the evidence of P.Ws.2 and 3 aiding the evidence of P.W.1 and even nothing is brought out in the cross-examination by the revision petitioner and the evidence of the revision petitioner is not convincing, and, therefore, the said finding is maintained.

9. Turning to monthly maintenance of Rs.5,000/- awarded to each of the respondents 1 to 3, the revision petitioner claimed that he owned only Ac.1-04 cents of agricultural land, and, therefore, the finding recorded by the learned Judge, Family Court, that he must have been getting Rs.25,000/- per month easily is incorrect as it is not supported by any convincing documentary evidence. Learned counsel

for the revision petitioner would submit that Exs.A5, A6, A7 and A9 to A15, which are the pahanies, would not disclose that the revision petitioner is owning more extent than what is stated by him.

10. A perusal of the entries in pahanies clearly show that an extent of more than three acres land stands against the revision petitioner's name, the extents being Ac.1-77 cents in Sy. No.24/4, Ac.1-00 cents in Sy.No.114/2 and Ac.0-84 cents in Sy.No.100/16 under Khata No.223 of Bestavaripet Mandal, Prakasam District. Therefore, the revision petitioner is not correct in asserting that he owns only Ac.1-04 cents as against what he has been contending. Of course, it is difficult for the wife to place convincing material as to what were the crops raised and what was the agricultural produce and what was the domestic consumption and how much was sold in Agricultural Market Committee. However, the husband cannot keep silent and vivid details thereof ought to have been given by him to substantiate the stand he has taken, which he did not do.

11. Keeping in view, that the revision petitioner owns less than three acres of land and the amount of Rs.5,000/- granted to the children appears to be on somewhat higher side, the same is reduced to Rs.3,000/- each so far as respondents 2 and 3 are concerned, while maintaining monthly maintenance of Rs.5,000/- granted to the 1st respondent-wife. Thus, the total amount of Rs.11,000/- is awarded as mentioned hereinabove directing the revision petitioner to pay the same.

12. Accordingly, the present Criminal Revision Case is partly allowed to the aforesaid extent, while maintaining the order in all other respects. The parties shall bear their respective costs.

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

A. SHANKAR NARAYANA, J

Dt. 02.01.2018
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