

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 2233 OF 2011

ORDER:

Heard the learned counsel for the petitioners.

2. Pursuant to the order dated 27.6.2012, the personal notice taken out on respondent No.2 through RPAD was served on 27.7.2012 and the proof of service is filed through Memo dated 26.9.2018 vide U.S.R.No.7596 of 2018. Though notice is served on respondent No.2 in the year 2012 itself, none appeared for him.

3. The present Criminal Revision Case is filed challenging the orders passed in M.C.No.100 of 2000 dated 12.8.2011 on the file of the Family Court cum IV Additional District and Sessions Judge's Court, Vijayawada awarding a sum of Rs.1500/- p.m. to petitioner No.1 and Rs.1,000/- p.m. each to petitioner Nos. 2 and 3 towards maintenance.

4. The facts in brief are that petitioner No.1 herein is the legally wedded wife of respondent No.2. Their marriage was performed on 23.10.1994 at Vijayawada as per Hindu rites and customs. Out of the wedlock, they were blessed with petitioner Nos. 2 and 3. After marriage, since disputes arose between petitioner No.1 and respondent No.2, they were living separately, which led to filing of maintenance case against

respondent No.2. In the maintenance case, the petitioners have stated that respondent No.2 is working as a private employee in Kerala Transport Company and earning Rs.5,000/- p.m. It is also stated that respondent No.2 is having good source of income, not only from his employment but also from his ancestral property, and in all getting an amount of Rs.30,000/- p.m.

5. Respondent No.2 filed counter denying the material allegations made in the maintenance case and contended inter-alia that he is getting a salary of Rs.1,700/- p.m. after deduction. He is ready and willing to accept the petitioners to his family fold and lead a marital life with petitioner No.1. The efforts made by him for reconciliation proved futile.

6. In order to substantiate their contentions, the petitioners examined PWs 1 to 8 and got marked Exs.P1 to P8 on their behalf. Respondent No.2 examined RWs 1 to 9 and got marked Exs. D1 to D15 on his behalf, apart from Ex.X1 notary copy of Register of Wages of the office of Kerala Transport Company, Vijayawada.

7. After hearing the parties and analyzing the evidence brought on record, learned Judge, Family Court, allowed the maintenance case in part by orders dated 12.8.2011 awarding Rs.1,500/- p.m. to petitioner No.1 and Rs.1,000/- p.m. each to

petitioner Nos. 2 and 3 towards maintenance from November, 2009 onwards. Aggrieved by the same, the present Criminal Revision Case is filed by the petitioners seeking enhancement of maintenance.

8. Learned counsel for the petitioners would contend that the maintenance as awarded by the learned Judge, Family Court, will not commensurate with the financial capacity of respondent No.2. Respondent No.2 is working as a private employee in Kerala Transport Company and drawing a sum of Rs.5,000/- p.m. apart from income from his ancestral property, and in all getting Rs.30,000/- p.m. The maintenance as awarded is too less and the petitioners are finding it difficult to maintain themselves with the meagre amount. Therefore, they sought for enhancement of the maintenance.

9. Per contra, respondent No.2 has stated that he is getting a salary of Rs.1,700/- p.m. after deductions. In fact, he has filed the salary certificate also and the same was marked as Ex.D9.

10. Having heard the learned counsel for the petitioners and a perusal of the material on record, the admitted facts are that petitioner No.1 is the legally wedded wife of respondent No.2. Out of the wedlock, they were blessed with petitioner Nos. 2 and 3. As far as the financial capacity and the monthly

emoluments of respondent No.2 are concerned, it is brought on record that respondent No.2 is working as a private employee in Kerala Transport Corporation and drawing a sum of Rs.5,000/- p.m. Learned counsel appearing for the petitioners brought to the notice of this Court that though no documentary evidence is filed, respondent No.2 is getting a sum of Rs.30,000/- p.m. at present. Admittedly, the father of respondent No.2 settled ancestral properties in favour of his sons under Ex.D14 will. In fact, respondent No.2 also admitted that as per the will, he got land admeasuring Ac.0.65 cents, two portioned house in two stored building, an extent of 60 sq.yards of godown i.e., C-schedule property. However, respondent No.2 stated that his father has already sold away the property during his life time. Though respondent No.2 has taken such a plea, he has not filed any documentary evidence to show that his father has sold away the above said properties during his life time. Further, though notice is served on respondent No.2 in the present Criminal Revision Case, he has not chosen to appear either in person or by engaging any counsel.

11. The maintenance was awarded to the petitioners in the year 2011. After eight long years, it cannot be said that respondent No.2 is getting a salary of Rs.5,021/- only p.m. As

submitted by the learned counsel for the petitioners, though respondent No.2 may not be getting a sum of Rs.30,000/- p.m. but after eight long years, there would have been considerable increase in his salary. Similarly, the income from his ancestral properties in the form of two portioned house and a godown would also fetch good rentals.

12. Basing on the above, this Court is inclined to enhance the maintenance for the sustenance of the petitioners. In fact, petitioner Nos. 2 and 3 are students. It is brought to the notice of this Court that petitioner No.2 is prosecuting her first year Engineering course and Petitioner No.3 is studying Intermediate course. When they are prosecuting higher studies, in the present day, the expenditure for education is too high. That apart, the cost of living and the rate of inflation existing also makes it difficult for the petitioners to sustain themselves with the maintenance awarded in the year 2011.

13. Taking the above said circumstances into consideration, this Court deems it appropriate to enhance the maintenance to petitioner Nos. 1 to 3 i.e., from Rs.1,500/- to Rs.3,000/- p.m. to petitioner No.1 and from Rs.1,000/- to Rs.2,000/- p.m. each to petitioner Nos. 2 and 3 towards maintenance.

Accordingly, the Criminal Revision Case is disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

P. KESHAHA RAO,J

Date: 27.9.2018

KPM

