

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.158 OF 2018

ORDER:

This revision is filed by the petitioner-husband under Sections 397 and 401 Cr.P.C. aggrieved by the order, dated 30.01.2016 in M.C.No.2 of 2014 on the file of the Judge, Family Court-cum-III Addl. District and Sessions Judge, Srikakulam, wherein maintenance of Rs.4,000/- per month to the 2nd respondent-wife and Rs.2,000/- per month to the 3rd respondent-son was granted.

2. Heard learned counsel for the petitioner. Despite service of notice on the 2nd respondent-wife, there is no appearance.

3. Learned counsel for the petitioner would submit that the petitioner is working as Attender in Varam Residency and getting salary of Rs.3,000/- per month and he is incapable of maintaining respondents 2 and 3. Further the 2nd respondent deserted on her own. There is no mental and physical cruelty meted out to 2nd respondent. The petitioner was in judicial custody for a period of one month when he committed default in payment of maintenance granted by the trial Court at the rate of Rs.4,000/- per month in favour of the 2nd respondent and Rs.2,000/- per month in favour of the 3rd respondent and ultimately, prayed to set aside the impugned order.

4. As seen from the evidence on record, there is no dispute with regard to marriage of the petitioner and the 2nd respondent. There is also no dispute with regard to paternity of the 3rd respondent. There is record to show that the 2nd respondent was subjected to mental and physical cruelty. She lodged a report with the police to punish the

petitioner and his relatives for the offence under Section 498-A IPC. The petitioner, who was examined as R.W.1 stated that the 2nd respondent intentionally deserted the petitioner for his no fault. The evidence of P.W.2-S.Parvati, who was examined on behalf of the 2nd respondent, corroborates the evidence of P.W.1. Ex.P1 is the wedding card and Ex.P2 is the marriage photo. There is no reason for P.W.2 to depose false about the harassment meted out to the 2nd respondent by the petitioner. There is a justification on the part of the 2nd respondent to live separately from the petitioner. As per the evidence, the petitioner has not taken care of the respondents 2 and 3, which shows the attitude of the petitioner. The trial Court was pleased to grant maintenance of Rs.4,000/- per month to the 2nd respondent and Rs.2,000/- per month to the 3rd respondent from the date of petition i.e., from 20.01.2014. The petitioner is working as Watchman in Varam Residency. As per the evidence of P.W.1, the petitioner is getting monthly salary of Rs.8,000/-. He is also doing flowers decoration business and earning Rs.50,000/- per month. The submissions made on behalf of the petitioner that his salary is Rs.3,000/- per month is not acceptable. Now-a-days, Watchman working in a Residency gets a salary of Rs.10,000/- and above. As per the evidence on record, it can safely be concluded that due to non payment of maintenance, the petitioner was in judicial custody for a period of one month. It reflects his inability to pay maintenance of Rs.4,000/- per month in favour of the 2nd respondent and the same can be reduced to Rs.3,000/- per month. As far as maintenance granted to the 3rd respondent-son is concerned, it is quite reasonable as the cost of living and educational expenses are high now-a-days.

5. In the result, the maintenance granted in favour of the 2nd respondent-wife is reduced from Rs.4,000/- per month to Rs.3,000/- per month. The maintenance granted in favour of the 3rd respondent-son at the rate of Rs.2,000/- per month and order of payment of maintenance from the date of petition i.e., 20.01.2014 are upheld.

6. With the above modification, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any pending in this Revision shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 24-04-2018.

Hsd

