

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.170 OF 2018

ORDER:

Heard both the counsel.

2. The present Criminal Revision Case is filed questioning the orders passed in M.P.No.200 of 2017 in M.C.No.39 of 2017 dated 28.10.2017 on the file of the Additional Metropolitan Sessions Judge for the trial of JHCBBB-cum-Additional Family Court, Hyderabad awarding a sum of Rs.2,000/- each per month to the respondents 2 to 5 herein towards interim maintenance.

3. The facts of the case are that the respondents 2 to 5 herein filed M.C.No.39 of 2017 against the petitioner herein on the file of the Family Court, City Civil Court, Hyderabad, claiming a sum of Rs.5,000/- each per month towards maintenance.

4. It is the case of the 2nd respondent herein that her marriage with the petitioner was solemnised on 3.9.1997 with a dower of Rs.21,000/- as per the Muslim Personal Law. Out of the wedlock, the petitioner and the 2nd respondent were blessed with three children. Thereafter, the petitioner started harassing the 2nd respondent herein mentally and physically for additional dowry and on failure to comply with the same, he

used to beat the 2nd respondent mercilessly. The 2nd respondent was also admitted in hospital in the month of November, 2007 where upon the 2nd respondent lodged a complaint before the Women Police Station, South Zone, Hyderabad, resulting in registration of Crime No.262 of 2007 for the offence Under Sections 324, 406, 498-A read with 34 IPC. However, the matter was compromised at the intervention of the family elders. In fact, the 3rd respondent herein is suffering from Thalassemia Sickle Cell disease and regularly his blood has to be changed once in a month. Pending the maintenance case, a petition in M.P.No.200 of 2017 was filed claiming interim maintenance.

5. The petitioner herein filed counter in the said M.P.No.200 of 2017 disputing the averments made in the petition and inter-alia contended that he has not subjected the 2nd respondent herein to cruelty. On the other hand, he pleaded that the 2nd respondent is having illicit relationship with one person by name Murtuza Ali @ Mujju even prior to the marriage. She continued the relationship with him. In fact, she was caught red-handed by him and the elders in the family. In order to get over that, the 2nd respondent filed the maintenance case against him with false allegations. He also stated that the 2nd

respondent is doing tailoring business and earning Rs.50,000/- p.m.

6. The Court below, after hearing, was pleased to allow the petition on 28.10.2017, awarding a sum of Rs.2,000/- each per month to the respondents 2 to 5 herein, till the disposal of the maintenance case. Aggrieved by the same, the present Criminal Revision Case is filed.

7. Learned counsel for the petitioner would contend that the order of the Court below is contrary to law and weight of evidence. The Court below ought to have seen that the 2nd respondent is a divorcee. She has voluntarily taken qula divorce with the petitioner. Therefore, there is no relationship of husband and wife. He also contended that the 3rd respondent has attained majority and at present he is aged about 19 years and as such he is not entitled for any maintenance from the petitioner. The 2nd respondent is working in a medicine factory and stitches clothes at her residence on contract basis and in the process, she is having an income of Rs.50,000/- p.m. It is also contended that the petitioner has been paying a sum of Rs.6,000/- p.m. but due to his ill-health and since he suffered paralytic attack, he is unable to drive auto and hence, he does not have any earning at present.

8. Having heard both the counsel and on perusal of the facts and circumstances available on record, it is seen that learned Family Judge, without going into the truth or otherwise of the allegations made by both the parties and also without appreciating in detail, the financial aspects of both the parties, as a temporary measure, awarded a sum of Rs.2,000/- each per month towards interim maintenance to the respondents 2 to 5 herein. When the said arrangement is only temporary till the disposal of the maintenance case and more particularly looking into the cost of living and the rate of inflation, this Court is not inclined to interfere with the order passed by the Court below. In fact, it is brought to the notice of the Court that the 3rd respondent herein is suffering with Thalassemia Sickle Cell disease which requires changing of blood once in a month.

9. In the above circumstances, there are no merits in the Criminal Revision Case and the same is liable to be dismissed.

10. Accordingly, Criminal Revision Case is dismissed. However, the Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court, Hyderabad, is directed to dispose of the Maintenance Case within a period of four months from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

P. KESHAVA RAO,J

Date: 25.6.2018

KPM

