

HONOURABLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No. 240 of 2018

ORDER:

Heard the learned counsel for the petitioner as well as the respondents.

The present criminal revision case is filed questioning the orders passed in CrI.M.P.No.120 of 2014 in FCOP(MC) No.149 of 2014 dated 20.09.2017, granting a sum of Rs.6,000/- per month towards interim maintenance from the petitioner herein, on the file of the Judge, Family Court-cum-XII Additional District Judge, Guntur.

The facts of the case are that the marriage of the mother of the petitioner with the first respondent, was performed on 10.06.2011 at Usha Grand Function Hall, Guntur as per Hindu Rites and Customs. At the time of marriage, her parents gave a sum of Rs.2 lakhs towards dowry and also presented 25 sovereigns of gold ornaments besides household articles. It is the further case of the mother of the petitioner that immediately after the marriage, she joined the first respondent herein and lead marital life at Lalupuram village of Guntur. On the first day itself, the first respondent expressed his weakness about his sexual potency and stated that the problem will be solved after undergoing treatment. Even then, the mother of the petitioner herein continued the marital life with the first respondent with fond hope that the problem will be solved. However, the first respondent and his family members started harassing her for additional dowry of Rs.20 lakhs and at the

intervention of the elders, the matter was settled. On 22.10.2011 the first respondent and his family members detained the mother of the petitioner in a room and harassed physically and mentally demanding additional dowry. Few months thereafter, the mother of the petitioner went to Gudavalli village where the first respondent was working and even there also the first respondent kept her away from discharging the matrimonial obligations. After the first respondent underwent treatment, the mother of the petitioner conceived and gave birth to the petitioner. But, the first respondent brought the mother of the petitioner to her parents' house and left her there. Due to such harassment physically and mentally for additional dowry, the mother of the petitioner lodged a complaint which was registered as Crime No.451 of 2012 of Nagarampalem Police Station for the offences under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. It is the case of the mother of the petitioner that the first respondent is working as Veterinary Doctor and getting monthly salary of Rs.32,000/- besides having movable and immovable properties. Therefore, she filed FCOP (MC) No.149 of 2014 claiming an amount of Rs.15,000/- per month to the petitioner towards maintenance. Pending the main case, a petition in Crl.M.P.No.120 of 2014 in FCOP(MC) No.149 of 2014 was filed claiming interim maintenance of Rs.10,000/- per month to the petitioner.

The first respondent herein filed a counter opposing the claim of the petitioner by contending that from the beginning the attitude of the petitioner's mother was unbearable to him and his parents and she used to abuse the first respondent in filthy language. It is

also stated that on the nuptial night the mother of the petitioner abused the first respondent by saying that he is an impotent and he is unfit for sex. It is the further case of the first respondent that on 22.10.2011 the mother of the petitioner deserted him voluntarily without any justifiable reason and went to her parents' house and thereafter she filed a false case against him in Crime No.451 of 2012. Since the mother of the petitioner herself stated that he is not fit for nuptial ceremony and as he expressed weakness about sexual potency and as they were maintaining distance, he disputed the parenthood of the petitioner and he is not under an obligation to maintain the petitioner. The mother of the petitioner being legally wedded wife of the first respondent, was granted interim maintenance of Rs.6,000/- per month from the first respondent vide M.C.No. 110 of 2012 which has been complying with by him. However, the Court below dismissed the CrI.M.P.No.120 of 2014 by holding that without proper finding as to the paternity and legitimacy of the petitioner herein, the petition filed for interim maintenance cannot be allowed without deciding the substantive issue by orders dated 20.09.2017. Aggrieved by the same, the present criminal revision case is filed.

The learned counsel appearing for the petitioner, argued that dismissal of the petition by the Court below for grant of interim maintenance pending main case is bad in law for the reason that in M.C.No.110 of 2012 filed by the mother of the petitioner against the first respondent, it was held that it cannot be said that the mother of the petitioner could not have become pregnant in the circumstances alleged by her and as such, the learned Judge

ought to have considered the same and allowed the petition. The court below ought to have considered the necessities of the minor petitioner ignoring the matrimonial disputes between his parents.

Per contra, the learned counsel appearing for the first respondent would submit that unless the paternity and legitimacy of the petitioner is established, the present application cannot be maintained.

From the perusal of the material on record, prima facie it is established that there is a serious dispute with regard to the potency of the first respondent herein as well as the paternity and legitimacy of the petitioner. Though the relationship between the mother of the petitioner and the first respondent is accepted, and when there is a serious dispute with regard to the paternity of the petitioner, this Court is of the opinion that unless the said issue is decided, the question of payment of interim maintenance, pending the main case may not be proper. However, as the paternity and legitimacy of the petitioner has been seriously disputed and as the first respondent is under obligation to maintain the minor petitioner if the said allegation is not there, this Court feels it appropriate to direct the Court below to decide the main FCOP (MC) No.149 of 2014 itself within a reasonable time.

Accordingly, criminal revision case is disposed of directing the Court below to dispose of the main FCOP (MC) No.149 of 2014 as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order.

The miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

P. KESHA VA RAO,J

Date:07.06.2018
Ccm/slk



HONOURABLE SRI JUSTICE P. KESHAVA RAO



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Ccm