

THE HON'BLE Dr JUSTICE SHAMEEM AKTHER

Criminal Revision Case No.279 of 2018

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner, to set aside the order, dated 01.12.2017, passed in M.C.No.1 of 2014 by the Special Judicial Magistrate of First Class, Prohibition and Excise Court, Srikakulam.

2. Heard the learned counsel for the petitioner at length, learned Assistant Public Prosecutor representing the 4th respondent-State and perused the record.

3. The learned counsel for the petitioner would submit that 1st respondent herein is not the legally wedded wife of the petitioner. The Court below erred in granting maintenance to respondents 1 to 3 herein @ Rs.3,000/- each per month. The respondents have sufficient means to maintain themselves. There is no neglect on the part of the petitioner in maintaining respondents 1 to 3. A false criminal case was registered against the petitioner for the offence punishable under Section 498-A of I.P.C. There is no single document to show the marriage between the petitioner and the 1st respondent. The 1st respondent has sufficient means to maintain herself and ultimately prayed to set aside the order under challenge.

4. As per the material placed on record, the marriage between petitioner and the 1st respondent took place on 16.05.2005 at Srikakulam, in the presence of elders and relatives, as per Hindu

rites and customs prevailing in their community. It was a love marriage. At the time of marriage, an amount of Rs.1,00,000/- was given as dowry. The marriage was consummated. Thereafter, respondents 2 and 3 were born to the 1st respondent through the petitioner. Thereafter, the petitioner started harassing the 1st respondent mentally and physically for additional dowry of Rs.3,00,000/- and also forced the 1st respondent to allow him to perform another marriage. It is also alleged that the petitioner developed illegal intimacy with another lady and harassed the 1st respondent. There is also evidence to show that the petitioner was habituated to bad vices and harassed the 1st respondent. There is also specific evidence that on 04.05.2013, at about 07:00 AM, the petitioner beat the 1st respondent indiscriminately all over her body in the presence of her mother demanding additional dowry of Rs.3,00,000/- and suspected her character. There are several instances to show that the 1st respondent was subjected to mental and physical torture by the petitioner. Therefore, there is justification on the part of the 1st respondent in staying away from the petitioner. As seen from the material placed on record, the 1st respondent has no sufficient means to maintain herself and her children (respondents 2 and 3). The petitioner, who is working as Surveyor in Mines and Geology Department and also doing finance business and getting a monthly income of Rs.40,000/-, has sufficient means to maintain respondents 1 to 3. The dispute was also placed before the elders. Even then, the petitioner did not change his behaviour. The respondents 2 and 3 are school going children. They require

money for their daily expenses, including educational expenses. The Court below, while appreciating the facts and circumstances of the case and relying on the evidence on record, granted maintenance @ Rs.3,000/- each to the respondents 1 to 3. The findings of the Court below are based on evidence on record. There is no miscarriage of justice to interfere with the impugned order. There are no grounds to vary the impugned order. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

5. In the result, this Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand dismissed.

17th April, 2018
Bvv

Dr. SHAMEEM AKTHER, J

