

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.393 of 2018

ORDER:

Heard the learned counsel for the petitioner and respondent Nos.1 and 2.

The present revision case is filed questioning the orders dated 15.12.2017 in CrI.M.P.No.272 of 2016 in M.C.No.58 of 2008 on the file of the Family Court-cum-VI Additional Sessions Judge, Kadapa, enhancing the monthly maintenance from Rs.7,500/- to Rs.15,000/- per month to respondent Nos.1 and 2

The facts in brief are that respondent Nos.1 and 2 filed M.C.No.58 of 2008 claiming maintenance against the petitioner on the file of the above said Court. In the said maintenance case, the Court below awarded a sum of Rs.2,000/- each per month to respondent Nos.1 and 2 by orders dated 06.01.2009 and the same has been enhanced to Rs.4,000/- and Rs.3,500/- per month to respondent Nos.1 and 2 respectively before the Lok Adalath. Subsequently, respondent Nos.1 and 2 filed a petition in CrI.M.P.No.272 of 2016 seeking enhancement of monthly maintenance from Rs.7,500/- to Rs.20,000/- per month. In the said petition, they have stated that the petitioner being a Mandal Agricultural Officer is drawing a salary of Rs.70,000/- per month.

Per contra, the petitioner stated that he is getting a salary of Rs.14,500/- per month. The Court below, after considering the same, enhanced the monthly maintenance from Rs.4,000/- to Rs.10,000/- per month to respondent No.1 and Rs.3,500/- to

Rs.5,000/- per month to respondent No.2 by orders dated 15.12.2017. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would submit that enhancement of monthly maintenance by the Court below is contrary to law and probabilities of the case. The Court below without considering Ex.B1 dated 16.09.2017 i.e., the salary certificate, enhanced the maintenance. He also submitted that because of the conviction in C.C.No.208 of 2008 for the offence under Section 498-A and Sections 4 and 5 of the Dowry Prohibition Act, imposed by the Judicial Magistrate of First Class, Kadapa, the petitioner has been suspended from service. He also brought to the notice of the Court that the net salary being received by the petitioner is Rs.17,728/-. Therefore, he sought allowing of the revision case.

Per contra, learned counsel appearing for respondent Nos.1 and 2 supported the impugned orders. He also submitted that the 2nd respondent, who is a school going child, is going to tuition and the 1st respondent is incurring heavy expenditure towards his education.

Having heard both the counsel and from a perusal of the material on record, it is revealed that the 1st respondent is the legally wedded wife of the petitioner. Out of wedlock, they were blessed with the 2nd respondent. However, due to disputes between the petitioner and the 1st respondent, respondent Nos.1 and 2 filed M.C.No.58 of 2008 claiming maintenance against the petitioner.

Further, the matter has been referred to Lok Adalat and also on filing a petition under Section 127(1) Cr.P.C., seeking enhancement of maintenance, the same is enhanced from Rs.4,000/- to Rs.10,000/- and Rs.3,500/- to Rs.5,000/- per month to respondent Nos.1 and 2. As far as the financial status of the petitioner is concerned, he is working as Mandal Agricultural Officer drawing a net salary of Rs.25,228/-. Ex.B1, which is the salary certificate, shows that though the gross earnings of the petitioner is Rs.39,608/-, after deductions he is getting net salary of Rs.25,228/-. A perusal of the said certificate filed in the material papers would indicate that the petitioner only for the purpose of avoiding the maintenance have not taken any deductions. The deductions as mentioned therein are only the statutory deductions. When the petitioner is getting a sum of Rs.25,228/-, enhancement of maintenance @ Rs.15,000/- per month, viewed from any angle, is excessive. The petitioner being the Mandal Agricultural Officer has to maintain himself. In these circumstances, this Court is inclined to interfere with the order passed by the learned Family Judge as far as enhancement of maintenance to the 1st respondent is concerned.

Accordingly, the criminal revision case is disposed of modifying the orders passed in CrI.M.P.No.272 of 2016 in M.C.No.58 of 2008 dated 15.12.2017, on the file of the learned Family Judge, Kadapa, by reducing the maintenance to respondent No.1 from Rs.10,000/- to Rs.7,500/- (Rupees Seven thousand five hundred only) per month. As far as the enhanced maintenance to

respondent No.2 is concerned, the order passed by the learned Family Judge is confirmed.

Miscellaneous petitions, if any, shall also stand disposed of.

P. KESHAVA RAO, J

Date: 01.08.2018.

ES

