

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.526 of 2015

ORDER:

Heard the learned counsel for the petitioner as well as the first respondent.

The present revision case is filed assailing the orders dated 22.01.2015 passed in M.C.No. 191 of 2014 on the file of the Court of the Judge, Family Court-cum-IV Additional District and Sessions Judge, at Vijayawada, in awarding a sum of Rs.50,000/- per month towards maintenance to the first respondent from the date of the order.

The learned Senior Counsel Smt. Sesharajyam, appearing on behalf of the learned counsel for the petitioner would contend that the order impugned, cannot be sustained in law on the ground that the said order is without notice to the petitioner. That apart, from the perusal of the order impugned, the maintenance as awarded is without any material on record as well as without any jurisdiction. The learned Senior Counsel also submitted that the basic object of Section 125 Cr.P.C. is only to avoid vagrancy and not allowing the wife to live a destitute life. But, in the case on hand, the first respondent is having sufficient means. Per contra, the learned counsel appearing for the first respondent supported the impugned order.

Having heard both the counsel and from the perusal of the material on record, the admitted facts are that the first respondent is the legally wedded wife of the petitioner. Their marriage was performed on 14.06.2012 as per the Hindu rites and customs

prevalent in their community since time immemorial. It is stated in the maintenance case that at the time of marriage, the petitioner and his parents were presented with a sum of Rs.50 lakhs apart from other customary articles. However, after marriage, disputes arose between the petitioner and the first respondent leading to their separation and initiating several proceedings. In the said process, the present maintenance case is filed claiming a sum of Rs.2 lakhs per month. From the further perusal of the material, particularly, the impugned order, it is evident that it is an ex parte order. Even if it is an ex parte order, the learned Family Judge is expected to appreciate the evidence brought on record, arrive at a conclusion with regard to the means and capacity of the petitioner and fix the maintenance. Except two paras, comprising of four and half lines and five lines, nothing is mentioned in the impugned order. On the face of it, the order is liable to be set aside, it being without any reasons.

However, the learned counsel appearing for the first respondent brought to the notice of this Court that at present the first respondent is not having any job and she is finding it difficult to sustain herself. The said contention has been disputed by the learned Senior Counsel appearing for the petitioner. Be that as it may, when once this Court has found that the impugned order is liable to be set aside, this Court is not inclined to express any opinion on merits which will prejudice the rights of both parties before the Court below. That apart, this is not the forum to consider the relative merits and give a finding in the absence of evidence on record.

Accordingly, the criminal revision case is allowed setting aside the orders dated 22.01.2015 passed in M.C.No. 191 of 2014 on the file of the Court of the Judge, Family Court-cum-IV Additional District and Sessions Judge, at Vijayawada and the matter is remitted back to the Court below for fresh adjudication after allowing both parties to lead their evidence. It is needless to observe that both parties are directed to co-operate with the Court below in conducting the trial of the case. The learned Family Judge is directed to dispose of the maintenance case itself within a period of three months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA VA RAO, J

Date: 18.09.2018
CCM



HONOURABLE SRI JUSTICE P. KESHAVA RAO



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