

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NOS.608 AND 758 OF 2018

COMMON ORDER:

Criminal Revision Case No. 608 of 2018 is filed questioning the orders passed in M.C.No.191 of 2015 dated 17.1.2018 on the file of the Court of the Judge, Family Court at L.B.Nagar, Rangareddy district seeking enhancement of the maintenance awarded in the above said M.C.

2. Respondent No.1 in Criminal Revision Case.No.608 of 2018 filed Criminal Revision Case No.758 of 2018 against the very same orders questioning the quantum of maintenance awarded in favour of the petitioner herein.

3. Since both the Criminal Revision Cases are filed against the very same orders and the facts and the issues are similar, with the consent of both the counsel, a common order is being passed.

4. For the sake of convenience, the parties herein are being shown as arrayed in the cause title in M.C.No.191 of 2015.

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

6. The facts in brief are that the petitioner filed M.C.No.191 of 2015 against the respondent claiming a sum of Rs.20,000/-

per month towards maintenance. It is her specific case that the respondent has been working as a Software Engineer and drawing a salary of more than Rs.1,00,000/- per month apart from having a house property admeasuring 329 sq.yds.

7. Per contra, the respondent filed a counter denying the averments made in the maintenance case and inter-alia contended that he has not received dowry of Rs.3,00,000/- and gold ornaments worth Rs.5,00,000/- as alleged in the maintenance case. He denied that the house property purchased at Kurnool was with the partial funds provided by the father of the petitioner. He specifically denied that he is getting Rs.1,00,000/- p.m. as salary and that prior to that he was earning Rs.62,00,000/- in Indian currency when he was working in U.S. Therefore, he sought dismissal of the M.C.

8. To prove her case, the petitioner examined herself as PW1 and got marked Ex.P1 on her behalf. Respondent himself examined as RW1 and no documents are marked. After hearing, the learned Family Judge, by orders dated 17.1.2018, allowed the maintenance case in part directing the respondent to pay a sum of Rs.10,000/-per month to the petitioner towards maintenance from the date of the petition apart from the maintenance amount awarded in DVC.No.8 of 2015. Aggrieved by the same, the petitioner filed Criminal Revision Case No.608

of 2018 for enhancement of the maintenance. The respondent filed Criminal Revision Case No.758 of 2018 challenging the quantum of maintenance awarded.

9. To substantiate her contentions, the petitioner, in her chief-examination, deposed on similar lines with the pleadings in the maintenance case. Her specific case is that the respondent is drawing more than Rs.1,00,000/- salary and he had sufficient means to pay the maintenance @ Rs.20,000/- p.m. Apart from the salary, the respondent is also having a house property purchased with the partial funds provided by her parents. It is also brought to the notice of this Court that the respondent has purchased Ac.3.00 gts of land worth Rs.1,16,16,000/- at Kurnool. From the above said two immovable properties, coupled with the salary, the respondent is having an income of about Rs.3,00,000/- p.m.

10. Per contra, the respondent, in his evidence, has deposed that his services are terminated and at present he is living in Kurnool.

11. Though the respondent has specifically denied that he is getting more than Rs.1,00,000/- p.m. as salary and that he used to get Rs.62,00,000/- lakhs p.m. in Indian currency when he worked in U.S. as a Software Engineer, he has not chosen to produce any evidence to the effect that his services have been

terminated or at present he is not working in any company. In this regard, the respondent is the best person to produce the evidence to the effect that his services have been terminated and at present he is idle. However, the respondent has not chosen to produce any such evidence. Therefore, an adverse inference has to be drawn against the respondent.

12. Be that as it may, since there was no forthcoming evidence from the respondent, learned Family Judge, was pleased to presume that the respondent is earning a minimum salary of Rs.60,000/- to Rs.70,000/- p.m. Basing on that, the maintenance has been awarded @ Rs.10,000/- p.m.

13. In the above circumstances, this Court does not find any irregularity or illegality in the orders passed by the Court below. There are no merits in the Criminal Revision Case filed by the respondent vide CrI.R.C.No.758 of 2018. Accordingly, it is liable to be dismissed.

14. As far as CrI.R.C.No.608 of 2018, which is filed by the petitioner is concerned, though the counsel for the petitioner urged before this Court with regard to the financial capacity as well as the monthly salary of the respondent as more than Rs.1,00,000/-, no evidence is produced. Therefore, this Court is not in a position to appreciate the said oral submission and enhance the maintenance.

15. On the above counts, both the Criminal Revision Cases are dismissed.

16. It is also brought to the notice of this Court that pursuant to the orders passed in M.C.No.191 of 2015 dated 17.1.2018, the respondent has not paid any maintenance amount till date. In that event, the petitioner is at liberty to move an appropriate application for execution before the Court below and on such application, the Court below is directed to consider the same and pass appropriate orders as per law within a period of one month from the date of receipt of such application.

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

Date: 19.7.2018

KPM



P. KESHAVA RAO,J