

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL REVISION CASE No.885 OF 2012

ORDER:

This criminal revision case is filed by the petitioner herein aggrieved by the order dated 18.10.2004 in M.C.No.67 of 2003 on the file of IV Additional Munsif Magistrate, Guntur, where under the learned Magistrate awarded maintenance at the rate of Rs.1,000/- per month to the 1st respondent herein and at the rate of Rs.5,00/- per month to the 2nd respondent herein from the date of the order.

2. The brief facts of the case are as follows:

(a) The respondents 1 and 2 herein filed above M.C. seeking maintenance with averments that they are the wife and daughter of the petitioner herein. The marriage between the 1st respondent and the petitioner herein took place on 09.03.1991 at Tirupati and soon after the marriage, the 1st respondent joined the company of the petitioner and they led matrimonial life. On the demand of the petitioner, the father of the 1st respondent executed a registered contract of sale in favour of the petitioner in respect of a house plot of 150 square yards at Employees Colony on Vijayawada Road and gave the said plot as a token of 'Pasupukunkuma' to the 1st respondent. For sometime, both of them led happy marital life and out of their wedlock, the 1st respondent gave birth to 2nd respondent in the year 1992.

(b) Thereafter, the petitioner due to some financial troubles started harassing the 1st respondent and demanded her to bring additional dowry of Rs.50,000/- and threatened that if she failed to fulfill his demand, he would bring another girl as his wife and as the 1st respondent failed to fulfill his demand, he necked her out of the house. In spite of several mediations, the petitioner herein refused to take back the respondents with him.

(c) Ultimately, the 1st respondent gave report to police of Arundalpet Police Station and case in Crime No.81 of 2002 was registered against the petitioner under Section 498A IPC and Sections 3 and 4 of Dowry Prohibition Act. After investigation, police filed charge sheet and the same was taken cognizance and registered as C.C.No.166 of 2002 by V Additional Munsif Magistrate, Guntur. She also filed M.C.No.33 of 2002. However, on the request of the petitioner, the 1st respondent believed him and not pressed the M.C. and in C.C.No.166 of 2002 also she reported compromise between them. As such, the said criminal case was ended in acquittal and M.C.No.33 of 2002 was dismissed.

(d) The petitioner filed H.M.O.P.No.210 of 2002 on the file of Additional Senior Civil Judge, Guntur, under Section 9 of Hindu Marriage Act and he agreed to withdraw the said O.P. subject to the 1st respondent withdrawing her two cases.

Though the 1st respondent withdrew her two cases, the petitioner did not withdraw H.M.O.P. and has not taken back the respondents to his house. Instead, he filed a private complaint against the 1st respondent, her father and some other elders. Hence, the M.C.

(e) The petitioner filed counter and opposed the petition. He contended that the 1st respondent left his house without his knowledge and she tried to grab the house plot which he purchased from her father. He contended that he filed the suit for specific performance in O.S.No.112 of 2003 on the file of II Additional Junior Civil Judge Court, Guntur. In his counter, he admitted that both C.C.No.166 of 2002 and M.C.No.33 of 2002 were ended in compromise. He further contended that the 1st respondent obtained C.M.R.Y. loan and she has been doing business in cloths under the name and style 'Sri Vijaya Lakshmi Yuvajana Sangam, Old Guntur' and earning Rs.3,000/- to Rs.5,000/- per month and therefore, she has sufficient means to support herself and the 2nd respondent. He submitted that H.M.O.P.No.210 of 2002 filed by him is pending. He contended that he is an unemployee and has no means and he has no properties to maintain them.

(f) Before trial court, P.Ws.1 and 2 were examined on behalf of 1st respondent. On behalf of the petitioner, Exbs.R1 to R25 were marked.

(g) The trial court, having considered the evidence on record, had observed that on the promise of the petitioner, the 1st respondent has withdrawn the two cases but the petitioner has continued the H.M.O.P.No.210 of 2002 and he filed O.S.No.112 of 2003 and obtained injunction against P.W.2. The trial court further observed that the conduct of the petitioner herein in filing a private complaint and suit against P.Ws.1 and 2 even after her withdrawal of C.C.No.166 of 2002 and M.C.No.33 of 2002 would clearly show that he himself was not interested to take back the respondents 1 and 2 and therefore, 1st respondent has valid grounds to live separately from the petitioner and claim maintenance. The trial court, then considering that the petitioner being an able bodied person, held that the petitioner is liable to maintain his wife and daughter.

(h) So far as the means of the 1st respondent are concerned, the trial court observed that, though the 1st respondent obtained loan under C.M.R.Y. and did cloths business previously, she is not doing the cloths business now and the petitioner has not produced any evidence to show that she has sufficient income to maintain herself and her daughter. On such observations, the trail court awarded maintenance as stated supra.

3. When the matter came up for hearing, there is no representation for the petitioner. It is an old matter of the year 2012. Hence, this Court perused the record.

4. As can be seen from the impugned order, when the petitioner herein harassed the 1st respondent for additional dowry of Rs.50,000/- and tortured her, she filed C.C.No.166 of 2002 under Section 498A IPC and Sections 3 and 4 of Dowry Prohibition Act before V Additional Munsif Magistrate, Guntur and she also filed M.C.No.33 of 2002 and on the representation of the petitioner, she withdrew the same by reporting compromise. However, the petitioner herein, who filed H.M.O.P.No.210 of 2002 before Additional Senior Civil Judge, Guntur under Section 9 of Hindu Marriage Act, did not withdraw the case as promised, but continued the same. He also filed a private complaint against the 1st respondent herein, her father and some other elders. Thus, as rightly observed by the trial court, the conduct of the petitioner herein would show that he wanted to harass his wife and daughter somehow. Therefore, the respondents herein were justified in living separately and making a claim for maintenance. The quantum of maintenance awarded by the trial court also cannot be carped, having regard to the sky rocketing prices. At the outset, I find no merits in the criminal revision case.

5. Accordingly, this criminal revision case is dismissed by confirming the order dated 18.10.2004 in M.C.No.67 of 2003 on the file of IV Additional Munsif Magistrate, Guntur.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

15.11.2018
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