

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No. 2548 of 2014

ORDER:

Heard the learned counsel for the petitioner.

The present criminal revision case is filed challenging the judgment dated 13.11.2014 passed in CrI.A.No.55 of 2013 on the file of the Special Sessions Judge for Trial of Offences under SCs. & STs. (POA) Act, at Karimnagar, confirming the orders passed in DVC No.40 of 2009 dated 04.03.2013, in awarding a sum of Rs.5,000/- per month towards maintenance to first respondent and her son.

The facts in brief are that the first respondent is the legally wedded wife of the petitioner. Their marriage was performed on 22.02.2007 at Karimnagar. At the time of marriage, the parents of the first respondent gave Rs.4 lakhs, gold, furniture, clothes worth Rs.15,000/- and other household articles worth Rs.1,40,000/- to the petitioner and his family members. After the marriage, the first respondent stayed with the petitioner at Hyderabad. They lived happily for some time and thereafter the petitioner and his family members started harassing physically and mentally demanding to bring additional dowry of Rs.6 lakhs. When the first respondent was carrying pregnancy, the petitioner has not taken care of her and even after delivery, he has not changed his attitude and continued to harass her. Even panchayat held was also of no use. Since the petitioner completely neglected the first respondent and her child, she was constrained to file the domestic violence case on the file of the Additional Judicial Magistrate of First Class, Karimnagar claiming Rs.10,000/- per month towards maintenance. The petitioner filed

counter admitting the relationship with the first respondent, but denied material allegations made in the domestic violence case and contended *inter alia* that the first respondent is a quarrelsome lady and she used to pick up quarrel on each and every trivial matter. She used to comment on the income of the petitioner and used to leave his house on each and every petty issue. The petitioner tolerated the same with the fond hope that on one day or the other, she would realize, but of no avail. He also stated that, in fact, the first respondent neglected him. The first respondent demanded the petitioner to stay back in her parents' house. Though, the petitioner accepted and stayed back in his in-laws' house, after some time again they returned back to their house. Because of the attitude of the first respondent, the petitioner suffered untold misery and he was humiliated and subsequently he lost his job. Since there is no change in the attitude of the first respondent, the petitioner filed a petition for divorce vide FCOP No.24 of 2009 on the file of the Judge, Family Court, Karimnagar and the same was pending. The learned Magistrate, after elaborate enquiry by orders dated 04.03.2013 partly allowed DVC No.40 of 2009, awarding a sum of Rs.5,000/- per month towards maintenance to the first respondent and her son from the date of the petition. Aggrieved by the said orders, the petitioner and others filed Crl.A.No.55 of 2013 on the file of the Special Sessions Judge for Trial of Offences under SCs. & STs. (POA) Act, at Karimnagar. After hearing, the said appeal was dismissed by judgment dated 13.11.2013 confirming the orders passed by the learned Magistrate. Aggrieved by the said judgment, the present criminal revision case is filed.

Learned counsel for the petitioner would contend that the orders passed by both the Courts below in awarding a sum of

Rs.5,000/- per month towards maintenance is excessive and without there being any material on record. Both the Courts below failed to appreciate that there is no domestic relationship between the petitioner and the first respondent. Both the Courts below ought to have appreciated that the first respondent filed report of cruelty and harassment before the Police, Sanathnagar within the jurisdiction of Metropolitan Magistrate at Miyapur limits for the offences under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act and thereafter the first respondent, exposed to mental disorder and she was taken by her parents to Karimnagar, as such there is no domestic violence.

Having heard the learned counsel for the petitioner 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 according to the rites prevalent in their community and out of wedlock, they were blessed with son. As far as the evidence of PWs.1 to 3 and Ex.P-1 are concerned, they corroborate the version of the first respondent as far as the marriage and the harassment meted out to her by the petitioner. Though they were cross examined at length, nothing has been elicited to discredit their evidence. The petitioner himself examined as RW-1 and supported his case, but failed to examine any other person in support of his version. On appreciation of the evidence, the learned Magistrate, was pleased to found that the petitioner harassed the first respondent physically and mentally demanding to bring additional dowry and therefore, there was domestic violence. Now coming to financial aspect and the earnings of the petitioner is concerned, in the cross examination he has admitted that he is a software programmer,

but because of the mental agony suffered by him due to the acts of the first respondent, he lost his job and at that time, he was not doing any job. To support his contention, he filed Ex.R-3 which is a relieving letter from his employer on his resignation. A perusal of the said letter would indicate that he has resigned for the job and the same has been accepted by the employer. But, the said letter does not indicate that he has been removed from the job. Apart from the same, though the petitioner, has taken a stand that he lost his job, but because of the qualification which he possesses, it cannot be said that he is unemployed and not doing anything. Be that as it may, even if the petitioner is not doing any job, he being a highly qualified and hale and healthy person. He is expected to maintain his wife and son. The said moral as well as legal obligation cast upon, cannot be disowned on the ground that he is a jobless person. In fact, this Court and the Apex Court, time and again, on this aspect held that as long as the husband is hale and healthy and possessing high qualifications, is expected to maintain his wife and children.

Further, the lower appellate Court also after appreciation of the evidence dismissed the appeal confirming the orders passed by the learned Magistrate. In that view of the matter, the grounds raised in the criminal revision case will not touch the aspect of either perversity or there is any patent illegality on the face of the order. Since the scope of revision under Sections 397 and 401 Cr.P.C. is very limited, this Court is of the opinion that there is no irregularity or illegality in the orders passed by the lower appellate Court. Hence, there are no merits in the revision and it is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

Date:11.09.2018
ccm

P. KESHA VA RAO,J



HON'BLE SRI JUSTICE P. KESHA RAO



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