

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 2228 OF 2014

ORDER:

From a perusal of the docket, it is revealed that on 11.11.2014, this Court granted interim suspension of the impugned order dated 14.7.2014 on condition of the petitioner depositing the entire arrears in respect of the respondent Nos. 2 and 3 are concerned and 50% of the arrears in respect of respondent No.1 within a period of six weeks from the date of the order and continue to pay the maintenance @ Rs.1,500/- p.m. to respondent No.1 and Rs.2,500/- each to respondent Nos. 2 and 3. When the matter was listed on 16.8.2018, there was no representation on behalf of the petitioner. Therefore, the matter is posted today under the caption, "For dismissal". Even today also, there is no representation for the petitioner.

2. The present Criminal Revision Case is filed questioning the orders passed in M.C.No.48 of 2013 dated 14.7.2014 on the file of the Court of Judge, Family Court, Warangal, granting a sum of Rs.3,000/- p.m. to respondent No.1 and Rs.2,500/- p.m. each to respondent Nos. 2 and 3 towards maintenance from the date of the petition.

3. The facts in brief are that the marriage of respondent No.1 with the petitioner was performed on 5.10.2005 in

Warangal. Out of the wed-lock, they were blessed with respondent Nos. 2 and 3 on 18.8.2006 and 7.11.2008 respectively. One year after marriage, the petitioner started harassing respondent No.1 for additional dowry of Rs.2,00,000/-. While she was carrying respondent No.3, the petitioner and his family members beat respondent No.1 and driven her out from the matrimonial home demanding to bring additional dowry of Rs.2,00,000/-. When the parents of respondent No.1 approached the elders, they advised the petitioner to take back respondent No.1 and treat her well. In spite of the same, the petitioner continued his highhandedness of harassing respondent No.1 for additional dowry. In fact, when respondent No.1 was nine months pregnant for the second time, the petitioner and his family members left her at CKM Hospital, Warangal on 6.11.2008 and did not take care to inform even to her parents. A panchayat was held for the second time on 20.9.2009 before whom the petitioner and his family members once again demanded Rs.2,00,000/- and threatened that he would see the end of respondent No.1. However, the petitioner got issued a legal notice calling upon respondent No.1 to join his conjugal society with a malafide intention. In those circumstances, respondent No.1 filed a complaint against the petitioner and his family members for the

offence under Section 498-A and 506 IPC and Sections 3 and 4 of Dowry Prohibition Act. Since the petitioner refused to take care of respondent Nos. 1 to 3, they filed M.C.No.17 of 2010. Pending the said maintenance case, the petitioner agreed to take back respondent Nos. 1 to 3 and there was a compromise to that effect on 7.1.2011. But the petitioner, once again started harassment for additional dowry and neglected them. Therefore, respondent Nos. 1 to 3 filed maintenance case seeking Rs.6,000/- p.m. to respondent No.1 and Rs.4,000/- p.m. each to respondent Nos. 2 and 3 towards maintenance.

4. The petitioner filed a counter denying the averments made in the maintenance case except the marriage and his occupation. However, as far as the respondent No.1 is concerned, he has stated that she is doing a private job and earning a monthly salary of Rs.7,000/-. Therefore, she can survive. As far as the presentations given to the petitioner at the time of marriage are concerned, the petitioner has denied the same. On the other hand, it is stated in the counter that respondent No.1 ill-treated the petitioner, demanded costly sarees, ornaments without even minding the family status and earning capacity of the petitioner.

5. Respondent No.1, to substantiate her contentions, examined herself as PW1 and another person as PW2. The

petitioner examined himself as RW1 and examined another person as RW2. But, no documents were marked. Learned Judge, Family Court, after considering the evidence on record, was pleased to allow the maintenance case in part by order dated 14.7.2014 directing the petitioner to pay a sum of Rs.3,000/- p.m. to respondent No.1 and Rs.2,500/- p.m. each to respondent Nos. 2 and 3 towards maintenance from the date of the petition. Aggrieved by the said orders, the present Criminal Revision Case is filed.

6. Learned counsel for the petitioner would contend that the orders impugned in the present Criminal Revision Case is contrary to law and probabilities of the case. Learned Judge, Family Court, ought to have appreciated that the petitioner is earning only Rs.7,000/- p.m. after all deductions. The said version in fact was also corroborated by the evidence of PW2. It is also submitted that the quantum of maintenance has to be fixed on the basis of the income of the husband brought on record by way of his salary certificate if he is an employee. Respondent Nos. 1 to 3 miserably failed to adduce any evidence, more particularly, in the form of salary certificate of the petitioner. But the Court below, on mere assumptions and presumptions, passed orders directing the petitioner to pay the monthly maintenance as awarded without there being any

evidence on record. Though respondent No.1 has stated that the petitioner is drawing a salary of Rs.30,000/- p.m., has not placed on record, any evidence to that effect.

7. Having gone through the material on record, the admitted facts are that respondent No.1 is the legally wedded wife of the petitioner. Out of the wed-lock, they were blessed with respondent Nos. 2 and 3. Since the petitioner neglected them to maintain and harassed them for additional dowry, respondent Nos. 1 to 3 were constrained to file maintenance case against the petitioner. It is the specific case of the respondent Nos. 1 to 3 that the petitioner is working as a Ward Boy in MGM Hospital in Warangal and drawing Rs.30,000/- p.m. towards salary. Except the respondents, there is no other person dependent on the petitioner. Though the petitioner has categorically stated that he is receiving only a sum of Rs.7,000/- p.m. towards salary after all deductions, he has not placed on record, any evidence to that effect. In fact, the petitioner is the competent person to place on record, the best evidence available with him with regard to his monthly salary. When he has not filed the said evidence, an adverse inference has to be drawn against him that what all he has stated, is not correct. Further, at any stretch of imagination, it cannot be

said that the petitioner being a Ward Boy working in MGM Hospital, Warangal, will draw a salary of Rs.7,000/- only.

8. Further, respondent No.1 in her maintenance case has categorically stated that she is incurring an expenditure of Rs.3,000/- p.m. on the education of respondent Nos. 2 and 3 in addition to Rs.2,500/- p.m. to provide food, clothes, medicines etc., Therefore, to satisfy the necessities of respondent Nos. 2 and 3, they are in need of Rs.4,000/- p.m. each towards maintenance. Apart from the same, respondent No.1 requires Rs.6,000/- p.m. to meet the expenditure of house rent, food, clothing, medicines etc., In fact, they are facing much hardship to maintain themselves. Apart from the same, looking at the present day cost of living and the rate of inflation, with the meagre amount of Rs.7,000/-, it is difficult for the respondents to maintain themselves, more so, when respondent Nos. 2 and 3 are school going children.

9. In the above circumstances, this Court is of the opinion that there is no irregularity or illegality in the orders passed by the learned Judge, Family Court in awarding maintenance to respondent Nos. 1 to 3 as stated above.

10. Therefore, there are no merits in the Criminal Revision Case.

11. Accordingly, the Criminal Revision Case is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO,J

Date: 21.8.2018

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