

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.788 of 2018

ORDER

Heard the learned counsel for the petitioner as well as the respondents.

The present criminal revision case is filed questioning the judgment dated 19.02.2018 passed in CrI.A.No.135 of 2017 on the file of the Court of the V Addl. Metropolitan Sessions Judge (Mahila Court), Hyderabad, confirming the orders passed in CrI.M.P.No.311 of 2015 in DVC No.89 of 2012 on the file of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad, to the extent of directing the petitioner to deposit a sum of Rs.7,20,000/- towards arrears of interim maintenance within a period of three weeks from the date of the order, failing which the petition filed to set aside the *ex parte* order dt. 2.4.2015 stands dismissed.

The facts of the case in brief are that originally the second respondent filed DVC No.89 of 2012 against the petitioner seeking protection order, accommodation, monetary reliefs and compensation, on the file of the Court of the III Metropolitan Magistrate, Hyderabad. Pending the main DVC, the second respondent filed petition vide CrI.M.P.N.555 of 2012 claiming interim maintenance @ Rs.1,00,000/- per month. The learned Magistrate, after considering the facts and circumstances of the case, granted Rs.30,000/- per month, towards interim maintenance on 15.3.2012. Subsequently, the petitioner, was set ex parte on 2.4.2015. By the time, the petitioner was set ex parte, the arrears of interim maintenance accrued by virtue of the

orders passed in CrI.M.P.No.555 of 2012, was Rs.14,40,000/-.

However, the petitioner, aggrieved by the said ex parte orders filed CrI.M.P.No.311 of 2015 to set aside the ex parte order. The learned Magistrate allowed the petition by orders dated 2.7.2015 in setting aside the ex parte order dated 2.4.2015 on condition of the petitioner No.1 depositing half of the arrears of interim maintenance i.e. Rs.7,20,000/- within a period of three weeks from the date of the order. Aggrieved by the said orders, the petitioner filed CrI.R.C.No.1289 of 2015 seeking suspension of the execution of the above said orders. This Court while granting stay, suspended the order of the learned Magistrate dated 2.7.2015 subject to the petitioner depositing 1/4th of the arrears of maintenance amount i.e. Rs.3,60,000/- on or before 30.11.2015. The petitioner in compliance with the orders passed by this Court, paid Rs.3,60,000/- to the second respondent and the same was withdrawn by her. However, the petitioner on 3.11.2016 sought permission of this Court to withdraw the criminal revision case. Accordingly, this Court granted permission for withdrawing the revision case. Consequent to the withdrawal of the criminal revision case, the petitioner filed an appeal in CrI.A.No.135 of 2017 on the file of the Court of the V Addl.Sessions Judge (Mahila Court), Hyderabad questioning the ex parte order dated 2.4.2015 to the extent of directing him to deposit Rs.7,20,000/- within a period of three weeks. The learned Addl. Sessions Judge (Mahala Court), Hyderabad, after hearing, was pleased to dismiss the appeal by orders dated 19.2.2018. Aggrieved by the said orders, the present revision case is filed.

Learned counsel appearing for the petitioner contended that the order of the lower appellate Court is contrary to the facts on record, and is opposed to the basic principles of the natural justice. The lower appellate Judge ought not to have dismissed the appeal in the light of the admissions made by the second respondent in the cross-examination. He also contended that the lower appellate Court ought to have considered the fact that pursuant to the orders passed by this Court in Crl.R.C.No.1289 of 2015, the petitioner deposited a sum of Rs.3,20,000/- and as such, the petitioner would have been given an opportunity to contest the DVC. The learned counsel seriously contended that the second respondent stated before the Court below that she is unemployed, whereas although she has been working and earning a sum of Rs.1,50,000/- per month and therefore, she is not entitled to maintenance and in fact, DVC is filed after 4 ½ years of separation between the spouses and the initiation of the proceedings is an abuse of process of law.

Per contra, the learned counsel appearing for the second respondent, justified the impugned order in the present revision case. He strenuously contended that as per the orders passed in Crl.M.P.No.555 of 2012 dated 19.4.2013 granting interim maintenance @ Rs.30,000/- per month, the petitioner in all deposited a sum of Rs.6,60,000/- till date compared to the amount liable to be paid i.e. Rs.24,90,000/- for 83 months. The learned counsel also submitted that in the light of the orders passed in SLP (Crl.) No.6722 of 2014, dated 12.09.2014, it is not open for the petitioner to canvass the non-maintainability of the proceedings

initiated by the second respondent in the DVC apart from other aspects.

Having heard both the learned counsel and from a perusal of the material on record, it is revealed that though DVC is filed in the year 2012, the parties, are litigating in the Courts on one or the other count and the proceedings are not yet attained finality. It is most unfortunate to observe that before even the matter is finalized, against the interlocutory orders passed in the Court below, the matters are being carried to the Sessions Court, this Court and even to the Apex Court. Be that as it may, in the peculiar facts and circumstances of the case, this Court deems it appropriate to direct the III Metropolitan Magistrate to dispose of the main DVC itself within a stipulated period subject to the petitioner depositing, some amount.

Accordingly, the revision case is allowed setting aside the orders passed in CrI.A.No.135 of 2017 dated 19.02.2018 on the file of the V Addl. Sessions Judge (Mahila Court), Hyderabad subject to the petitioner depositing a sum of Rs.8,00,000/- within a period of six weeks from today. Consequently, the learned III Metropolitan Magistrate, Hyderabad is directed to dispose of the DVC No. 89 of 2012 itself within a period of four 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: 12.07.2018.
CCM

HON'BLE SRI JUSTICE P. KESHA RAO



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Date:12.07.2018

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