

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.796 of 2018

ORDER:

Heard the counsel for the petitioner as well as the learned counsel appearing for respondent Nos.1 to 3.

The present revision case is filed questioning the orders passed in M.C.No.18 of 2014 dated 03.10.2017 on the file of the Family Court-cum-VI Additional District Judge, Kadapa, partly allowing the maintenance allowance @ Rs.10,000/- per month to respondent No.1 and Rs.2,500/- per month each to respondent Nos.2 and 3 herein.

The facts of the case are that respondent Nos.1 to 3 filed M.C.No.18 of 2014 against the petitioner and respondent Nos.4 and 5 herein claiming a sum of Rs.25,000/- per month each towards maintenance on the file of the Family Court-cum-VI Additional District Judge, Kadapa. It is their case that they are the wife and children of the petitioner. The marriage of the petitioner with the 1st respondent was solemnized on 10.10.2002 as per the Hindu rites and customs. Out of wedlock, they were blessed with respondent Nos.2 and 3 herein. The petitioner and the 1st respondent lived happily for sometime and thereafter disputes arose between them. The petitioner left respondent Nos.1 to 3 in his in-laws house in the month of January, 2005, and started living separately in a rented house in Vivekananda Nagar, Kadapa. The specific allegation is that the petitioner

neglected respondent Nos.1 to 3 and gave importance to his sister. The petitioner even failed to provide necessary amenities to respondent Nos.1 to 3. The 1st respondent due to ill-health stopped doing the job in the private schools. Respondent Nos.2 and 3 were admitted into schools and the 1st respondent is unable to meet their educational expenses and day to day necessities. The petitioner is receiving a sum of Rs.20,000/- towards house rents and is having sufficient means to pay the maintenance.

The petitioner filed a counter admitting the relationship with respondent Nos.1 to 3, but opposed their claim. It is his specific case that he was doing contract works till 2003, but due to cardiac problem, he stopped the work and is depending on his parents apart from other allegations.

During the course of trial, on behalf of respondent Nos.1 to 3, PWs.1 and 2 were examined and got marked Exs.A1 to A8. On behalf of the petitioner, RWs.1 to 3 were examined and Exs.B1 to B3 were marked. Apart from the same, Exs.X1 to X4 documents were also marked.

After hearing and appreciating the evidence adduced by both the parties, the learned Family Court-cum-VI Additional District Judge, partly allowed the maintenance case by orders dated 03.10.2017 granting monthly maintenance allowance of Rs.10,000/- per month to the 1st respondent and Rs.2,500/- per month each to respondent Nos.2 and 3. Aggrieved by the said orders, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the order of the learned Family Judge is contrary to law, weight of evidence and probabilities of the case. The learned Judge misread the evidence and erred in observing that the petitioner admitted in his counter that he has been addicted to vices and there is no evidence that he is spending money for the said vices. He also contended that the petitioner never neglected respondent No.1 and to prove the same, he has purchased a vacant site admeasuring 64.88 square yards in the name of the 1st respondent by borrowing amounts. He also submitted that the 1st respondent is a post-graduate with B.Ed., degree and well qualified to earn her livelihood on her own and she is not depending on the income of the petitioner. It is also further contended that the learned Family Judge failed to appreciate that the petitioner deposited an amount of Rs.2,21,000/- and Rs.2,20,000/- in the savings bank account of the 1st respondent to show that he is looking after respondent Nos.1 to 3.

Per contra, learned counsel appearing for respondent Nos.1 to 3 supported the impugned orders and contended that respondent Nos.1 to 3 were neglected by the petitioner and they have no source of income to maintain themselves. The petitioner is getting a sum of Rs.20,000/- from rents apart from doing contract works.

Having heard both the counsel and a perusal of the material on record would reveal that the marriage of the 1st

respondent was performed with the petitioner on 10.10.2002 and out of wedlock they were blessed with respondent Nos.2 and 3. After marriage, they lead happy marital life for sometime and thereafter disputes arose leading to the petitioner living separately in a rented premises thereby totally neglecting respondent Nos.1 to 3. To substantiate their contentions, respondent Nos.1 to 3 examined PWs.1 and 2. Their evidence shows that the petitioner is living separately from them and he has neglected the family. During the cross-examination of PW.1, except giving a bald suggestion, which was denied by PW.1, nothing has been elicited, more particularly, that the petitioner never neglected respondent Nos.1 to 3. PW.2 also deposed that respondent Nos.1 to 3 are not able to maintain themselves. The petitioner is having financial capacity to maintain respondent Nos.1 to 3, but he left their company and neglected them. She deposed that the petitioner is getting monthly rents of Rs.40,000/-. Though the evidence of PW.2 is being disputed during the cross-examination, but nothing has been elicited which render his evidence unbelievable. In fact, no suggestions are given that there is either enmity or hatredness against the petitioner. Thus, the evidence of PW.2 is corroborated with the evidence of PW.1.

The petitioner himself examined as RW.1 and another person as RW.2. In fact, RW.1 in his cross-examination has categorically admitted that he has not filed a certificate

showing that the 1st respondent is earning Rs.30,000/- per month and he owns a house at Mutharasupalli and the same was given on rent in the year 1990-2000. He borrowed an amount of Rs.12,000/- by mortgaging the house in the year 2014. No panchayat was held to bring back the 1st respondent to his house. This admission makes it clear that the petitioner neglected respondent Nos.1 to 3 though he is having sufficient means. Though RW.3 was examined, his evidence will not help the petitioner that he is maintaining respondent Nos.1 to 3. In fact, the petitioner has admitted in his cross-examination that he is owning a house and getting rents and he sold a house for Rs.12 lakhs in the year 2014. Though the petitioner has taken a specific plea that due to cardiac illness he is not doing any contract works, has not produced any evidence in that regard. In these circumstances, the learned Family Judge after appreciating the evidence was pleased to award maintenance allowance @ Rs.10,000/- per month to the 1st respondent and Rs.2,500/- per month each to respondent Nos.2 and 3.

In view of the above, this Court does not find any illegality or irregularity in the orders passed by the Court below. Apart from the same, when respondent Nos.2 and 3 are grown up and school going children and in the light of the present cost of living and the rate of inflation, the amount of maintenance awarded by the Court below, in the opinion of this Court, is reasonable and appropriate. In these

circumstances, this Court is of the view that there are no merits in the revision case and the same is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 26.06.2018.
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