

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NOS.928 AND 1448 OF 2018

COMMON ORDER:

Both the Criminal Revision Cases are filed against the order dated 5.2.2018 in CrI.M.P.No.994 of 2016 in M.C.No.2 of 2005 on the file of the Court of Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court, Hyderabad. Since the parties are same and the issues involved are also one and the same, both the Criminal Revision Cases are being disposed of by a common order with the consent of both the counsel.

2. For the sake of convenience, the parties herein are being shown as arrayed in the cause title in M.C.No.2 of 2005.

3. Heard the learned counsel for petitioner No.2 and the learned counsel for the respondent.

4. Criminal Revision Case No.928 of 2018 is filed by the respondent challenging the orders passed in CrI.M.P.No. 994 of 2016 in M.C.No.2 of 2005 dated 5.2.2018 the file of the Court of Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court, Hyderabad, enhancing the maintenance from Rs.1,000/- p.m. to Rs.10,000/- p.m. from the date of the petition.

5. Criminal Revision Case No.1448 of 2018 is filed by petitioner No.2 against the same orders seeking enhancement of maintenance.

6. Originally, petitioner Nos. 1 and 2 filed M.C.No. 2 of 2005 against the respondent claiming a sum of Rs.3,000/- each p.m. towards maintenance on the file of the Court of Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court, Hyderabad. The said M.C. was allowed on 17.2.2006 directing the respondent to pay maintenance to petitioner Nos. 1 and 2 @ Rs.1,000/- p.m. from the date of the order.

7. It is brought to the notice of this Court that respondent has been paying the maintenance at the above said rate to petitioner No.2 in the M.C. As far as petitioner No.1 is concerned, he paid maintenance upto the year 2012 and thereafter stopped payment on the ground that petitioner No.1 secured a job, which is not disputed by the learned counsel for petitioner No.2. In the year 2016, petitioner No.2 filed CrI.M.P.No.994 of 2016 for enhancement of the maintenance from Rs.1,000/- to Rs.20,000/-. The respondent filed his counter and contested the same. After hearing, learned Family Judge was pleased to pass order on 5.2.2018 enhancing the maintenance from Rs.1,000/- to Rs.10,000/- from the date of the petition i.e., 13.1.2016. Aggrieved by the same, petitioner No.2 filed CrI.Rc.No.1448 of 2018 claiming enhancement of the maintenance. The respondent filed CrI.Rc.No.928 of 2018 challenging the enhancement of maintenance on the ground that it is excessive.

8. Learned counsel appearing for petitioner No.2 would contend that the annual income incurred on petitioner No.2 for education,

maintenance etc., is Rs.1,50,000/-. Therefore, he sought enhancement of the maintenance from Rs.10,000/- to Rs.20,000/-.

9. It is relevant to mention here that petitioner No.1 is working as a Government teacher and drawing a salary of about Rs.29,000/- p.m.

10. Per contra, learned counsel for the respondent submitted that pursuant to the orders passed in M.C. No.2 of 2005 dated 17.2.2006, the respondent has been paying the maintenance to petitioner No.2 without committing any default. As far as enhanced maintenance is concerned, he expressed the inability of the respondent to pay the enhanced amount on the ground that he has to maintain his old aged parents who are suffering from B.P., Diabetis, Chronic and age related diseases. Apart from that, his younger sister, after the death of her husband, came to his house with her children and he has to maintain them also. They are totally dependent on him. That apart, petitioner No.1 being a Government teacher and with no dependents on her, can also contribute along with him for bringing up of petitioner No.2 and impart good education to him. In fact, petitioner No.1, being the mother, is also equally responsible to contribute her income to petitioner No.2.

11. After hearing both the counsel and on perusal of the material on record, it is revealed that petitioner No.1 is working as a Government teacher and drawing a salary of about Rs.29,000/- p.m. The expenditure that is being incurred on petitioner No.2 for his education, maintenance etc., is coming to Rs.1,50,000/- The

respondent being a Constable in Excise department is drawing a net salary of Rs.32,479/-. As far as the dependants are concerned, there are no dependants on petitioner No.1, but the respondent has to maintain his aged parents and his widow sister with her children, who are totally dependent on him. If the maintenance amount of Rs.10,000/- is deducted from the salary of the respondent, with the remaining amount of Rs.22,479/-, this Court feels that it is difficult for him to maintain his family comprising of himself, his aged parents, his sister along with her children.

12. Be that as it may, when it comes to the question of maintaining petitioner No.2, petitioner No.1 and the respondent being the parents are equally responsible for his upbringing and both have to contribute equally. Merely because the respondent is the father, it cannot be said that he alone is responsible.

13. In the above circumstances of the case, this Court does not find any irregularity or illegality in the orders passed by the learned Family Judge in enhancing the maintenance from Rs.1,000/- to Rs.10,000/- for petitioner No.2 and at the same time, since it is the moral as well as the legal responsibility of the respondent to take care of his son i.e., petitioner No.2, on the ground of maintaining the other family members, he cannot disown petitioner No.2.

14. Having regard to the above facts and circumstances available in these two Criminal Revision Cases, there are no merits in both cases and accordingly, the same are dismissed.

It is brought to the notice of this Court by the learned counsel for the respondent that since the enhanced maintenance is directed to be paid from the date of petition, indulgence may be shown to pay the maintenance in instalments.

Taking into consideration the submission made by the learned counsel for the respondent, the respondent is permitted to pay the enhanced maintenance @ Rs.10,000/- p.m. till the arrears are totally paid.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 19.7.2018

KPM

P. KESHA RAO,J

