

**HON'BLE SRI JUSTICE P. KESHA RAO**

**CRIMINAL REVISION CASE No.2073 of 2014**

**ORDER:**

Heard the learned counsel for the petitioner.

The present revision case is filed challenging the orders passed in F.C.M.C.No.1 of 2012 dated 02.09.2014 on the file of the Court of the Judge, Family Court-cum-Additional District and Session Judge, Karimnagar, granting a sum of Rs.5,000/- per month towards maintenance to the 2<sup>nd</sup> respondent.

The facts in brief are that the 2<sup>nd</sup> respondent is the legally wedded wife of the petitioner. Their marriage was performed on 21.01.1993 at Hyderabad as per the Muslims customs. At the time of marriage, her brothers presented Rs.50,000/- in cash, 5 tulas of gold ornaments, 30 tulas silver and other household articles to the petitioner. However, after the marriage, the petitioner started demanding additional dowry for improvement of his business and when the 2<sup>nd</sup> respondent unable to oblige the said request, he harassed her physically and mentally. In fact, the petitioner compelled the 2<sup>nd</sup> respondent to mortgage her house at Urban Bank, Karimnagar, and apportioned loan amount of Rs.2 lakhs. On 12.05.2010, the petitioner along with his relatives, with an intention to drive away the 2<sup>nd</sup> respondent, abused her indiscriminately and demanded additional dowry of Rs.2 lakhs. In those circumstances, the 2<sup>nd</sup> respondent lodged a

complaint vide Crime No.50 of 2010 for the offences under Sections 498-A and 506 IPC and Section 4 of the Dowry Prohibition Act (for short, “the Act”) and forced to file the above said F.C.M.C. against the petitioner. The petitioner filed his counter denying the material allegations made in the maintenance case and contended *inter alia* that the 2<sup>nd</sup> respondent filed D.V.C.No.8 of 2011 and also a petition under Section 3(2) of Muslim Women Protection of Rights on Divorce Act, 1986 claiming Rs.20 lakhs in lump sum and the same are pending consideration.

The learned Family Judge, after full-fledged trial and analyzing the evidence brought on record, allowed the maintenance case in part by orders dated 02.09.2014, directing the petitioner to pay Rs.5,000/- per month towards maintenance to the 2<sup>nd</sup> respondent from the date of the petition. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner strenuously contended that the order passed by the learned Family Judge is contrary to law and without there being any evidence on record. In fact, the 2<sup>nd</sup> respondent failed to establish that she has no independent source of income and she cannot maintain herself. In the absence of any such finding, the learned Family Judge erred in awarding maintenance. Finally, he also submitted that the petitioner is

not having sufficient means to pay the maintenance as awarded by the learned Family Judge.

Having heard the learned counsel and from a perusal of the material on record, it is established that the 2<sup>nd</sup> respondent has been harassed by the petitioner. In fact, the 2<sup>nd</sup> respondent was constrained to file the criminal complaint for the offence under Sections 498-A and 506 IPC and Section 4 of the Act. In the maintenance case, the 2<sup>nd</sup> respondent has categorically pleaded that she does not have any source of income and she is not able to maintain herself. On the other hand, the petitioner is doing wholesale and retail garment business and he is the sole proprietor of Kalkatta Garments, Gandhi Road, Karimnagar, and earning Rs.30,000/- to Rs.40,000/- per month. He is also holding S.N. Sections near old idgah and earning Rs.15,000/- to Rs.20,000/- per month apart from being a partner in Fashion Point Men's Wear, SBH Road, Karimnagar. The petitioner also owns one Scorpio vehicle, motor cycle and valuable movable articles worth lakhs of rupees. Though the 2<sup>nd</sup> respondent failed to establish as to what is the actual income the petitioner is getting, the petitioner, being the Proprietor and also a partner in the other business, failed to bring on record any evidence with regard to his actual earnings. As far as the income of the petitioner is concerned, he is the appropriate person to produce the best available evidence with him in the Court. In spite of having the evidence with him, when the petitioner has

not filed the same, an adverse inference has to be drawn against him.

Be that as it may, as far as the award of maintenance of Rs.5,000/- per month is concerned, nowadays looking at the cost of living and the rate of inflation, this Court is of the opinion that the same is not excessive. On the other hand, when the petitioner being the husband is leading a luxurious life, the 2<sup>nd</sup> respondent is also expected to maintain her life with the same standard of living. On these grounds this Court finds that there is no irregularity or illegality in the order of the learned Family Judge. There are no merits and the revision case is liable to be dismissed.

Accordingly, the criminal revision case is dismissed. Interim order, if any, stands vacated.

Miscellaneous petitions, if any, shall also stand dismissed.

**P. KESHAVA RAO, J**

Date: 18.09.2018.  
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