

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.984 of 2018

ORDER:

Heard the learned counsel appearing for the petitioner.

Though notice is served on the second respondent, she has not chosen to appear either in person or engaging any counsel. The service of notice has been filed by way of proof of service vide USR NO.28979 of 2018, dated 04.06.2018.

The present revision case is filed against the orders dated 27.12.2017 passed in CrI.R.P.No.18 of 2017 on the file of the Court of the VI Additional District and Sessions Judge, at Sddipet, Medak District, modifying the orders dated 29.12.2016 in M.C.No.31 of 2012 on the file of the Additional Judicial First Class Magistrate, Sddipet by awarding maintenance @ Rs.4,000/- per month and Rs.3,000/- per month to the petitioners 1 and 2 respectively from the date of filing of the maintenance case i.e. from July, 2012.

The facts of the case are that respondents 2 and 3 herein filed maintenance case vide M.C.No.31 of 2012 against the petitioner herein claiming a sum of Rs.10,000/-, on the file of the Additional Judicial First Class Magistrate, Sddipet, Medak District. It is the case of the second respondent that her marriage with the petitioner was performed on 9.11.2000 at Sddipet as per Hindu rites and customs. At the time of marriage, her parents have given a dowry of Rs.1,10,000/- to the petitioner along with other accessories. From the date of marriage, the behaviour of the petitioner was adamant and two months thereafter, he started harassing the second respondent to get additional dowry on the ground that she

gave birth to a handicapped son. The petitioner neither maintained family nor looked after the welfare of the respondents 2 and 3. In spite of several panchayats held by the elders of the community, there was no change in the attitude of the petitioner. The petitioner necked out the respondents 2 and 3 from his house and when the respondent No.2 was with her parents, he filed O.P.No.25 of 2007 for restitution of conjugal rights. It is curious to note that at the intervention of elders, the petitioner allowed the respondents 2 and 3 to live with him, and during the said period, the above said O.P. was allowed. Thereafter, the petitioner and his parents indiscriminately beat the second respondent and necked out both the respondents from the house threatening not to come again to his society, otherwise, he will marry another lady. Though the petitioner filed a petition for divorce vide O.P.No.92 of 2009, the same was dismissed. In those circumstances, she filed the maintenance case. The petitioner herein filed a counter admitting the marriage and relationship with the respondents 2 and 3 but denied all the allegations made against him with regard to harassing the second respondent for additional dowry etc. The trial Court, after elaborate enquiry, allowed the maintenance case on 29.12.2016 granting maintenance of Rs.2,500/- per month to the second respondent and Rs.1500/- per month to the third respondent. Aggrieved by the said orders, the respondents 2 and 3 filed CrI.R.P.No.18 of 2017 on the file of the Court of VI Additional District Judge, at Siddipet. After hearing, the said criminal revision petition was allowed modifying the orders dated 29.12.2016 by awarding maintenance of Rs.4,000/- per month to the second

respondent and Rs.3,000/- per month to the 3rd respondent from the date of filing of the maintenance case i.e. from July, 2012 by orders dated 27.12.2017. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel for the petitioner would contend that the lower appellate Court failed to appreciate and consider the financial capability of the petitioner to pay the awarded amounts to the respondents 2 and 3 apart from maintaining his old-aged parents and physically challenged son. The lower appellate Court ought not to have enhanced the monthly maintenance since it is not the case of the respondent No.2 that she is unable to do any work or in spite of doing any work, she is not in a position to maintain the family. He also contended that both the Courts below failed to appreciate the evidence of RW-4 in a proper perspective as far as working of the second respondent as teacher in Sri Jasmine English Medium Private School.

Having heard the learned counsel for the petitioner and after perusing the material on record, the undisputed facts are that the second respondent is the legally wedded wife of the petitioner. Out of wedlock, they were blessed with a son and daughter. At the time of marriage, the father of the second respondent gave Rs.1,10,000/- in cash towards dowry apart from other household articles. However, after the marriage, the petitioner was harassing the second respondent for additional dowry of Rs.50,000/-. In spite of the fact that the second respondent is living with him, he filed petition for restitution of conjugal rights and after the petition was allowed, they necked out the second respondent from his conjugal

society. Thereafter, he filed another petition in O.P.No.92 of 2009 for divorce against the second respondent which ended in dismissal. The case of the second respondent is that the petitioner intentionally, neglected them and he has not taken any care for their welfare. The petitioner is working as Zoology Lecturer in Degree College and is earning Rs.20,000/- per month and having valuable land of 13 acres in which he is raising paddy and vegetables and earning Rs.2 lakhs per annum. Though the petitioner filed counter-affidavit admitting the marriage and the relationship with the respondents 2 and 3, denied the other aspects relating to the harassment and the financial aspect. He specifically pleaded that he does not have any means to pay the said amount to the respondents 2 and 3.

The second respondent to prove her case examined herself as PW-1 besides examining her maternal uncle as PW-2. She marked Exs:P-1 and P-2 on her behalf. The petitioner examined himself as RW-1 and RWs.2 to 4 on his behalf. Ex.P-12 indicates that the petitioner is getting monthly salary of Rs.20,700/-. The second respondent denied in the cross examination that the mother of the petitioner is suffering from old-aged ailments and also denied that their handicapped son requires Rs.10,000/- per month towards medical treatment. Though such suggestions are given, the petitioner failed to adduce any evidence in that regard. PW-2 is the maternal uncle of the second respondent and he supported the version of the second respondent and he deposed that the mother of the petitioner is living with her other sons and in fact, the petitioner never looked after his mother. In the cross examination,

RW-1 has deposed that he does not own any landed property in Chandlapur village and does not know the extent of agricultural land owned by his father. This fact appears to be improbable since the petitioner who is working as zoology lecturer cannot be expected to be ignorant of the land possessed by his father in the village. On the basis of the aforesaid evidence, the trial Court awarded maintenance @ Rs.2500/- per month and Rs.1500/- per month to the respondents 2 and 3 respectively. In revision, the learned VI Additional District and Sessions Judge, taking into consideration Ex.P-2 wherein the petitioner was getting Rs.20,700/- per month towards salary and when the lower appellate Court questioned the petitioner as to any change in his salary, he answered in the negative and also that the petitioner is residing in his own house and since RW-2 admitted that the petitioner got agricultural land and mango garden and considering the responsibilities of the petitioner, enhanced the maintenance to Rs.4,000/- per month and Rs.3,000/- per month respectively from the date of filing of the maintenance case.

As far as modification of the orders of the trial Court from the date of filing of the maintenance case is concerned, the revisional Court, found that no reason has been assigned by the trial Court for not granting maintenance from 2012 to 2016 i.e. for more than four years. Since the said period is long, the respondents 2 and 3 cannot be deprived of the maintenance. Therefore, the order was modified by granting maintenance from the date of filing of the maintenance case i.e. July, 2012 onwards.

A careful scrutiny of the orders of the revisional Court, would indicate that it will not suffer from any irregularity or illegality. Further, in the present days, when the cost of living is very high, and looking at the inflation rate, this Court is of the opinion that the respondents 2 and 3 cannot be expected to lead the same life as that of the petitioner @ Rs.2500/- and Rs.1500/- per month. However, the payment of enhanced rate of maintenance from the date of filing of the maintenance case i.e. with effect from July, 2012 @ Rs.4,000/- and Rs.3,000/- per month is concerned, it would cause hardship for the petitioner to pay the arrears. In these circumstances, this Court is inclined to modify the orders passed by the learned VI Additional District and Sessions Judge, Siddipet in CrI.R.P.No.18 of 2017 to the extent of payment of maintenance at the enhanced rates from the date of order in CrI.R.P.No.18 of 2017 i.e. with effect from 27.12.2017. Accordingly, the petitioner is directed to pay the maintenance as awarded by the revisional Court from the date of orders passed in the criminal revision petition and continue to pay the same.

With the aforesaid observations, the criminal revision case is disposed of.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA VA RAO, J

Date:26.06.2018.
CCM

HONOURABLE SRI JUSTICE P. KESHA VA RAO



CRIMINAL REVISION CASE No.984 of 2018

Date:26.06.2018

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