HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE Nos.1022 and 996 of 2018

COMMON ORDER:

Heard both the learned counsel in Crl.Rc.Nos.996 of 2018 and 1022 of 2018.

2. Both the Criminal Revision Cases are filed against the orders passed in M.C.No.98 of 2012 dated 19.2.2018 on the file of the Court of the Judge, Family Court at L.B. Nagar, Ranga Reddy district.

3. Crl.RC.No.996 of 2018 is filed by the petitioner in Maintenance Case seeking enhancement and Crl.Rc.No.1022 of 2018 is filed challenging the maintenance granted in the above said Maintenance Case.

4. Since parties are one and the same in both the Criminal Revision Cases and the issue involved is also one and the same, with the consent of both the counsel, this common order is being passed.

5. For the sake of convenience, the parties will be described as per the cause title mentioned in the Court below.

6. Originally, the petitioner filed M.C.No.98 of 2012 against the respondent claiming a sum of Rs.15,000/- p.m. towards maintenance on the file of the Court of the Family Judge, L.B.Nagar, Hyderabad. It is her case that her marriage with

the respondent was performed on 10.11.2010 as per the Muslim rites and customs. On the demand of respondent and his family members, the parents of the petitioner gave a sum of Rs.30,000/- in cash as dowry, nine tulas of gold, eleven pairs of clothes and other house hold articles worth Rs.3,40,000/- at the time of marriage. It is her case that by the time her marriage was performed with the respondent, he was already married and the said aspect was suppressed. Not satisfying with the jahez and jewellery brought by the petitioner, the respondent and his family members used to comment on the petitioner. Ten days after the marriage, the respondent left for Abu Dhabi asking the petitioner to come to Abu Dhabi with all her gold jewellery. The petitioner joined the respondent at Abu Dhabi on 6.1.2011. However, the respondent induced the petitioner to part with all her gold jewellery by saying that he is in financial problems and if the amounts are not paid, he will be in jail. Thereafter, the respondent started torturing the petitioner physically and mentally and her life has become miserable. She was not even being provided with the basic needs. She was not even allowed to talk to her parents and sisters. In fact, on 1.7.2011, she was sent back to Hyderabad by saying that he is already having his wife with three children. Even though the respondent came to Hyderabad, he never visited the petitioner. When the petitioner approached the parents of the respondent, they abused her and not permitted her to enter into their house. In those circumstances, she filed a maintenance case claiming a sum of Rs.15,000/- p.m. towards maintenance.

7. The respondent filed counter denying the material allegations made in the maintenance case and contended inter-alia that at the time of marriage, he was not given any amount and articles as stated in the Maintenance Case. He also denied that he and his family members harassed the petitioner physically and mentally. He also stated that after their marriage, they lived happily for some time and thereafter he left for Dubai for his job. On 6.1.2011, the petitioner joined him. In Dubai, the petitioner forced the respondent to oblige all her illegal demands for living a luxurious life such as costly cars, gold and silver. The petitioner never used to cook food and the respondent was forced to eat outside. The petitioner even filed a false complaint against the respondent and his family members for the offence under Section 498-A IPC and Section 3 and 4 of the Dowry Prohibition Act. In fact, the respondent is jobless and he voluntarily resigned in Soudi Arabia and he is living on the mercy of his parents.

8. To substantiate her contentions, the petitioner examined herself as PW1 and another person by name Mohd. Abdul Azeem as PW2 and got marked Ex.P1, copy of the wedding card, on her behalf. On behalf of the respondent, he examined himself as RW1. After hearing the matter, learned Family Judge allowed the maintenance case partly by order dated 19.2.2018 directing the respondent to pay a sum of Rs.8,000/- p.m. towards maintenance from the date of the petition. Aggrieved by the same, the petitioner filed Crl.Rc.No.996 of 2018 for enhancement of the maintenance and the respondent filed Crl.R.C.No.1022 of 2018 challenging the maintenance awarded against him.

9. Learned counsel appearing for the petitioner contended that the maintenance as awarded by the learned Family Judge is meager and insufficient to meet her needs. The respondent is capable of paying maintenance of Rs.15,000/- p.m. The learned Family Judge, ought to have appreciated that the respondent was working in National Bank of Abu Dhabi and earning Rs.60,000/- p.m. The learned Family Judge also would have appreciated that the respondent is having another wife and children. In fact, the respondent harassed the petitioner at Abu Dhabi and took away all her gold jewellery.

10. Per contra, learned counsel appearing for the respondent contended that the learned Family Judge, failed to appreciate the pleadings and evidence adduced by the respondent and awarded Rs.8,000/- p.m. towards maintenance without any basis and any valid reasons. The Family Judge failed to appreciate that the respondent is already having a wife and three children and he has to maintain them apart from his old aged parents. In fact, his family consists of 14 members. Learned Family Judge ought to have considered the order of this Court in remanding the matter for re-consideration and should have considered the circumstances of the case before passing the impugned order. Though the respondent was working in National Bank of Abu Dhabi, he was removed from service and at present he is an unemployee and doing manual jobs which can hardly fetch a sum of Rs.5,000/- p.m. Therefore, the award of maintenance at Rs.8,000/- p.m. is excessive.

11. Having heard both the counsel and from the perusal of the material on record including the impugned order, it is revealed that the petitioner is the legally wedded wife of the respondent. At the time of marriage, the parents of the petitioner paid a sum of Rs.30,000/- in cash and presented nine tulas of gold and house hold articles worth Rs.3,40,000/-. After

marriage, the petitioner went to Abu Dhabi on 6.1.2011 with all her belongings. However, she came back on 1.7.2011 unable to bear the harassment meted out to her by the respondent. According to the petitioner, the respondent is working in National Bank of Abu Dhabi and earning Rs.60,000/- p.m. The respondent denied the case of the petitioner in to-to. It is his case that though he was working in National Bank of Abu Dhabi, he was removed from service and at present, he is depending on his parents doing manual jobs and earning a sum of Rs.5,000/- p.m. Apart from the same, he also stated that he has to maintain a big family and having a wife and three children.

12. In the light of the above factual matrix, the point for consideration is:

> "Whether the maintenance as awarded by the learned Family Judge, is excessive and whether the respondent is having financial capacity to pay a sum of Rs.15,000/- p.m. towards maintenance?"

13. The case of the petitioner is that the respondent is working in National Bank of Abu Dhabi and earning a sum of Rs.60,000/- p.m. apart from having two houses and fetching a rent of Rs.10,000/- p.m. Though the petitioner has stated that the respondent is drawing a salary of Rs.60,000/- p.m. and

having a rental income of two residential premises, has not produced any evidence to that effect. The respondent, though stated that earlier he was working in National Bank of Abu Dhabi and earning Rs.1,20,000/- p.m. in Indian currency and later he was removed from service, he has not produced any evidence to that effect. As per the evidence adduced and available on record, more particularly RW2, it is evident that the respondent was in Kuwait from 2015 to 2017. In his evidence, it is also elicited that the respondent worked in National Bank of Abu Dhabi for 14 years apart from working in Kuwait from 2015 to 2017. However, it appears that this crucial aspect has been suppressed by the respondent for obvious reasons more so to avoid payment of maintenance. When the respondent has taken a specific plea that after removal from service from National Bank of Abu Dhabi, he has not stated anything about his employment in Kuwait from 2015 to 2017. In fact, the respondent is the best person to produce the evidence with regard to his employment and etc., However, he has not come out with any evidence in this regard. Therefore, this Court deems it appropriate that an adverse inference can be drawn against the respondent for not producing the evidence which is in his custody and he is the best person to produce the same. As such, this Court safely infers from the above circumstances that the respondent, only for the purpose of avoiding payment of maintenance, has not come out with clear information before the Court below though he is having sufficient means for payment of the maintenance.

14. Be that as it may, the maintenance as awarded by the Court below, looking at the present rate of inflation and the cost of living for sustenance of a single person, is neither excessive nor otherwise.

15. In these circumstances, this Court is of the opinion that there are no merits in both the Criminal Revision Cases.

16. Accordingly, both the Criminal Revision Cases are dismissed. However, it is needless to observe that it is always open for the petitioner to move a fresh application for enhancement in case of changed circumstances vis-à-vis the sustenance, in future.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 20.7.2018.

KPM