

HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE No.944 of 2015

ORDER:

Heard the learned counsel for the petitioner as well as respondent Nos.1 and 2.

The present revision case is filed questioning the orders dated 08.08.2014 passed in M.C.No.21 of 2011 on the file of the XII Additional Sessions Judge-cum-Judge, Family Court, Guntur, granting a sum of Rs.3,000/- and Rs.2,000/- per month to respondent Nos.1 and 2 respectively towards maintenance.

The facts in brief are that the 1st respondent is the legally wedded wife of the petitioner. Their marriage was performed on 14.12.2002 at Guntur as per Hindu rites and customs. At the time of marriage, her parents presented cash of Rs.2,00,000/- towards dowry and other customary articles. Immediately, thereafter, the marriage was consummated and out of wedlock, they were blessed with the 2nd respondent on 14.11.2003. The petitioner and his parents are the agriculturists. They are doing money lending business and they used the dowry amount in the said business and are getting an income of Rs.6,000/- to Rs.8,000/- per month. From the date of marriage, the petitioner and his parents were demanding respondent No.1 to get additional dowry of Rs.1,00,000/-. The parents of the petitioner sent away the 1st respondent from the house advising her and the petitioner to live at Guntur so as to save the transport charges of the petitioner and other maintenance expenses. Accordingly, they have shifted and lived together in the house of the parents of the 1st respondent. Even then the petitioner was demanding additional dowry of

Rs.1,00,000/- . Since the 1st respondent and her parents refused to pay the same, the petitioner left the company of the 1st respondent taking away all her jewelery and joined his parents at Badepuram and since then he is living there. In fact, the petitioner was getting a salary of Rs.8,000/- per month and also earning Rs.8,000/- by doing money lending business. It is also stated that the petitioner and his parents are having a house and land admeasuring Ac.2.00 worth Rs.20 lakhs each and they are getting an amount of Rs.2 lakhs per year. Since the petitioner neglected respondent Nos.1 and 2, they filed M.C.No.21 of 2011 claiming maintenance @ Rs.5,000/- each from the date of the order.

The petitioner filed a counter denying the averments made in the maintenance case and *inter alia* contended that the 1st respondent herself deserted him willfully without assigning any cogent reasons. The parents of the 1st respondent never presented any cash towards dowry or gifts, which include gold chain and ring, at the time of marriage. They have not presented any gifts which include gold chain and ring. It is specifically stated that the 1st respondent has got an adamant attitude and she was picking up quarrels with him and his parents. In fact, she has got a childish and immature mentality and she demanded him to set up a family at her parents' house at Guntur. When the petitioner refused, being the only son to his parents, the 1st respondent went to her parents' house for delivery in November, 2003 and came back for a few days and thereafter went to her parents' house without informing him. Subsequently, the petitioner filed HMOP.No.319 of 2005 for restitution of conjugal rights and the same was re-numbered as HMOP.No.3 of 2008 and allowed on

03.03.2009. Immediately, thereafter, the petitioner filed O.P.No.29 of 2009 against the 1st respondent for dissolution of marriage.

The 1st respondent to prove her case examined herself as PW.1 apart from two other witnesses as PWs.2 and 3 and marked Exs.A1 to A16. The petitioner examined himself as RW.1 and other two witnesses as RWs.2 and 3 and marked Exs.B1 to B3 subject to objection.

The learned Family Judge, after considering the pleadings as well as the evidence adduced on behalf of both the parties, allowed the maintenance case in part by orders dated 08.08.2014, directing the petitioner to pay a sum of Rs.3,000/- and Rs.2,000/- per month to respondent Nos.1 and 2 respectively from the date of the petition. Aggrieved by the said orders, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the maintenance, as awarded by the learned Family Judge, is contrary to law, material on record and probabilities of the case. He also contended that the petitioner is earning Rs.5,000/- per month and therefore the learned Judge ought not to have granted Rs.5,000/- per month towards maintenance for respondent Nos.1 and 2. The 1st respondent has got sufficient funds to maintain herself. Since she is adamant and deserted the petitioner and started living with her parents, she is not entitled for maintenance. Even the petitioner originally filed HMOP.No.319 of 2005, which was re-numbered as HMOP.No.3 of 2008, for restitution of conjugal rights and the same was allowed. In spite of the orders, the 1st respondent failed to join his conjugal society. The petitioner

lost his job and at present he is not doing any work. Therefore, the maintenance has to be reduced.

Per contra, learned counsel appearing for respondent Nos.1 and 2 supported the impugned orders and *inter alia* contended that the petitioner has categorically pleaded in the maintenance case that he is drawing salary of Rs.8,000/- per month apart from another sum of Rs.8,000/- by doing money lending business. The petitioner is also having a house and land admeasuring Ac.2.00 worth Rs.20 lakhs each. Therefore, the maintenance is too meager.

Having heard both the counsel and from the perusal of the material on record, it is revealed that the 1st respondent is the legally wedded wife of the petitioner. Out of wedlock, they were blessed with the 2nd respondent. However, as the petitioner and his parents are demanding for additional dowry, and as the 1st respondent and her parents have not obliged for the same, she was sent out of the house. Since the 1st respondent along with the 2nd respondent is living with her parents, she filed the maintenance case. She has categorically stated that the petitioner is getting salary of Rs.8,000/- per month apart from another sum of Rs.8,000/- per month from money lending business and he is having immovable properties in the form of a house and land worth Rs.40 lakhs. Though the petitioner has categorically stated that he was doing job in Janapriya Shoe Mart and drawing salary of Rs.5,000/- per month and after filing of the maintenance case he lost the said job, has not produced any evidence with regard to the salary, more particularly, his removal from the job. On this aspect, the learned counsel for respondent Nos.1 and 2 brought to the

notice of this Court that the petitioner in his counter itself has stated that he secured a job in another shop. Therefore, the petitioner has not come out with correct picture about the financial capacity and also the monthly salary he is drawing. In fact, he is the proper person to produce the best of evidence, which is in his custody in the form of a salary certificate or otherwise a letter from his employer giving salary particulars. Since the petitioner has not come out with the best evidence, it is a fit case where adverse inference can be drawn against him.

Be that as it may, when the 1st respondent has categorically pleaded that the petitioner is earning Rs.8,000/- per month each towards salary and income from money lending business, there is no rebuttal on his part. Further, looking at the cost of living and the rate of inflation in the recent times, the maintenance of Rs.3,000/- and Rs.2,000/- per month to respondent Nos.1 and 2 respectively, in the peculiar facts of this case, is not excessive. Therefore, this Court does not find any merit in the revision case.

Accordingly, the criminal revision case is dismissed. It is needless to observe that if any arrears of maintenance are accrued till date, it is open for respondent Nos.1 and 2 to take appropriate steps as per law.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 14.08.2018.
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