

HON'BLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL REVISION CASE No.1305 of 2018

ORDER:

Heard the learned counsel appearing for the petitioner.

Though notice is taken out on the second respondent, he has not claimed the notice and the same is returned. Therefore, this Court deems it as proper service.

The present criminal revision case is filed questioning the orders passed in CrI.R.P.No.36 of 2017 dt.17.11.2017 on the file of the Court of the III Additional Sessions Judge, Bhimavaram in modifying the orders passed in M.C.No.3 of 2016 dated 07.03.2017 on the file of the Court of I Additional Judicial Magistrate of First Class, Bhimavaram, reducing the maintenance from Rs.15,000/- to Rs.5,000/- per month.

The facts of the case are that the petitioner herein filed M.C.No.3 of 2016 against the second respondent herein, claiming a sum of Rs.20,000/- per month towards maintenance, on the file of the Court of the I Additional Judicial Magistrate of First Class, Bhimavaram. The case of the petitioner in brief is that her marriage with the second respondent was solemnized on 07.03.1991 at Sri Venkateshwara Swami Vari Temple, Marteru as per Hindu ceremonies and customs. At the time of marriage, her parents gave Rs.50,000/- towards dowry and Rs.10,000/- towards 'Adapaduchu' lanchanams, 10 sovereigns of gold ornaments and one kilogram silver articles. Out of their wedlock, they were blessed with two sons and a daughter. They lived happily for some time. Later, the second respondent addicted to vices such as drinking,

womanizing etc. The second respondent used to abuse the petitioner and her children frequently and harassed them without providing food, clothes etc. Even the second respondent demanded additional dowry of Rs.50,000/- from the parents of the petitioner. In fact, the petitioner also came to know that the second respondent had an affair with another woman and he used to stay with her and totally neglected them. The matter was placed before the elders and they advised the second respondent, but there was no change in the attitude of the second respondent. The second respondent is a driver in A.P.S.R.T.C. and drawing salary of Rs.30,000/- per month. He is also doing money lending business through which he is getting an income of Rs.50,000/- per month. Apart from the same, the second respondent is also having landed property to an extent of Ac.01.20 cents of wet land at Bodapativari Palem and an extent of 05 cents at the same place in which he is having a tiled house. On the said properties, the second respondent is getting an income of Rs.2 lakhs and also getting an amount of Rs.5,000/- towards rent. In those circumstances, the petitioner filed maintenance case.

The second respondent filed counter denying the petition averments and contended *inter alia* that he never neglected the petitioner and children. In fact, the petitioner is doing money lending business and getting Rs.20,000/- per month. She is also leader of Dwakra group and she got double cropped paddy field worth Rs.25 lakhs, apart from possessing moveable and immovable properties. In fact, the first son is getting Rs.25,000/- by working in Sri Ram City Union, Bhimavaram and second son is running a

computer and internet centre by name Chandrika Net Centre in Bhimavaram and getting Rs.30,000/- per month. Their daughter is doing tailoring work and in the process, she is earning a sum of Rs.15,000/- per month. Therefore, they are not entitled for any maintenance. Hence, the petitioner is not entitled for any maintenance. Based on the above said pleadings, to prove her contention, the petitioner examined PWs.1 to 4 and Ex.P-1 is marked on her behalf. The second respondent examined RWs.1 to 3 including himself and no documents are marked on his behalf. The learned Magistrate, after hearing the matter at length, was pleased to allow the maintenance case in part by orders dated 07.03.2017, awarding maintenance at RS.15,000/- per month to the petitioner from the date of filing of the petition. Aggrieved by the said orders, the second respondent herein filed a revision in Crl.R.P.No.36 of 2017 on the file of the III Additional Sessions Judge, Bhimavaram. Learned Sessions Judge, after hearing, was pleased to allow the revision in part reducing the quantum of maintenance from Rs.15,000/- to Rs.5,000/- per month from the date of petition by orders dated 17.11.2017. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel appearing for the petitioner contended that the order of the revisional Court is illegal and contrary to the evidence on record. The revisional Court erroneously reduced the maintenance without assigning any reasons. The revisional Court committed an error in relying on Exs.R-1 to R-8 which are produced by the second respondent pertaining to small bits of land and there is no positive evidence adduced to show that any income is

derived. Though the second respondent has taken a specific stand that the children are working and earning handsome income, he failed to file any document showing that their children are getting huge amounts towards salary. Therefore, he sought to set aside the order passed by the revisional Court.

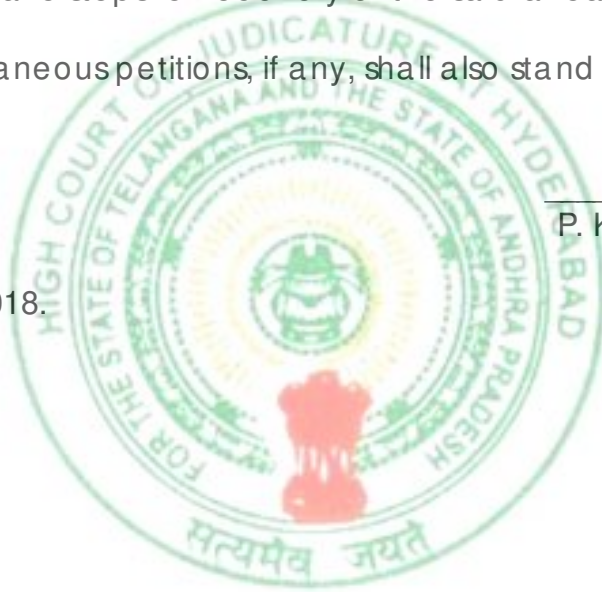
Having heard the submissions made by the petitioner and perusal of the record, it is revealed that the petitioner herein is the legally wedded wife of the second respondent. The evidence on record also establishes that the second respondent, without any reasonable cause neglected the petitioner and her children whereby she was forced to claim maintenance. Though the second respondent produced Exs.R-1 to R-8, he failed to produce any evidence that any income is being generated from the same. In fact, it is on record that the second respondent herein is working as driver and earning sufficient amounts. The revisional Court below after considering the evidence that the second respondent is having sufficient means, neglected his wife and deserted her without any sufficient cause, reduced the maintenance from Rs.15,000/- to Rs.5,000/- without any valid reason. A perusal of the order would not indicate that under what circumstances the said amount is reduced. The second respondent being the husband of the petitioner, legally and morally bound to maintain the petitioner. Now coming to the cost of living and rate of inflation in the present days, it is very difficult to sustain with meager sum of Rs.5,000/- per month. In these circumstances, this Court deems it appropriate to modify the orders passed by the revisional Court directing the

second respondent to pay maintenance of Rs.10,000/- per month from the date of the petition.

Accordingly, the criminal revision case is allowed in part directing the second respondent to pay maintenance @ Rs.10,000/- (Rupees ten thousand only) per month from the date of the petition. It is needless to observe that the arrears of maintenance, if any, that will be calculated at the above said rate, shall be payable to the petitioner within a period of six weeks from the date of receipt of a copy of this order, in default, it is open to the petitioner to take steps for recovery of the said arrears as per law.

Miscellaneous petitions, if any, shall also stand dismissed.

Date: 06.07.2018.
CCM



P. KESHAVA RAO, J

HONOURABLE SRI JUSTICE P. KESHA VA RAO



CRIMINAL REVISION CASE No.1305 2018

Date:06.07.2018

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