

HON' BLE SRI JUSTICE P.KESHAVA RAO
CRIMINAL REVISION CASE No. 2238 of 2014

ORDER:

The present criminal revision case is filed challenging the order dated 28.08.2014 passed in MC No.32 of 2012 on the file of the Judge Family Court, Secunderabad, seeking to enhance the maintenance.

The facts of the case in brief are as follows:

The petitioner is the legally wedded wife of the respondent No.1 and their marriage was performed on 14.02.2007 as per the customs and traditions prevalent in their community. It is alleged that during the stay of the petitioner with the respondent No.1, the petitioner was put to displeasure on every trivial issue. The matter was referred to the family counseling. Even then, there was no improvement in the relations between the parties. Hence, the revision petitioner was constrained to file a complaint under Section 498-A IPC in CC No.257 of 2008 on the file of the XIII Additional Chief Metropolitan Magistrate, Nampally, against respondent No.1. In those circumstances, the revision petitioner filed the maintenance case against the 1st respondent herein claiming a sum of Rs.10,000/- per month towards her maintenance.

In the above maintenance case, the respondent No.1 filed a counter denying all the material allegations made therein and *inter alia* contended that the revision petitioner never co-operated with him to consummate the marriage and even on the fixing of the date for nuptial ceremony, the petitioner had postponed on one pretext or the other apart from other aspects.

The learned family Judge after appreciation of the evidence brought on record, allowed the maintenance case in part by order dated 28.08.2014, awarding a sum of Rs.4,500/- per month to the revision petitioner towards maintenance. Aggrieved by the same, the present criminal revision case is filed.

Heard the learned counsel for the revision petitioner as well as learned counsel for the respondent No.1.

The learned counsel for the revision petitioner contended that the learned Family Judge has committed error in granting monthly maintenance amount of Rs.4500/- instead of Rs.10,000/- though the 1st respondent is having sufficing means and properties. The orders are passed without assigning any reasons and directed respondent No.1 to pay the monthly maintenance amount from the date of the order instead of from the date of petition. Therefore, the order impugned warrants interference of this court.

The learned counsel for 1st respondent while opposing the allegations and contentions raised by the petitioner, submitted that the financial capacity of the 1st respondent would not permit him to pay monthly maintenance amount of more than Rs.4500/- as granted by the court below and that there is no evidence adduced establishing the means and financial capacity of respondent No.1. Hence, the impugned order is a reasoned order and does not warrant any interference of this court and prayed to dismiss the present case.

Having perused the material on record as well as the order impugned, it is revealed that the petitioner failed to adduce evidence regarding the means and financial capacity of the 1st respondent and

without arriving at any conclusion on this aspect, the court below in a routine manner awarded a monthly maintenance of Rs.4,500/- to the petitioner and even as evident from the appendix of evidence annexed to the order impugned, no documentary evidence has been placed by the petitioner to prove that the 1st respondent is possessing immovable properties and having means to pay the monthly maintenance of Rs.10,000/- as prayed by the revision petitioner in the court below. In the absence of producing any relevant material before the court below, it is not open for the revision petitioner to find fault with the order impugned. Therefore, this court is of the opinion that there is no irregularity or illegality in the order impugned.

Accordingly, the criminal revision case is dismissed. However, petitioner is at liberty to move an appropriate application seeking enhancement of maintenance amount by placing relevant material before the court below in the light of the changed circumstances such as, present day cost of living and rate of inflation prevailing in the society.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

P.KESHAHA RAO, J

Date: 27.08.2018

MJL