

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1108 OF 2018

ORDER:

This Criminal Revision Case is filed questioning the orders passed in M.C.No.57 of 2017 dated 23.02.2018 on the file of the Court of XIV Additional District & Sessions Judge-cum-Additional Family Judge, Vijayawada, granting a sum of Rs.8,000/- per month towards maintenance to the 1st respondent herein.

Heard the learned counsel for the petitioner as well as the learned counsel appearing for the 1st respondent.

The facts of the case are that the first respondent herein filed M.C.No.57 of 2017 claiming a sum of Rs.10,000/- per month towards maintenance against the petitioner herein on the file of the above said Court. It is her case that her marriage with the petitioner was performed on 29.05.1998 as per Christian rites and customs. They led marital life happily for about three years. Thereafter the petitioner and his mother harassed the first respondent mentally and physically. The petitioner used to abuse the first respondent and beat her without any reasonable cause. On 15.01.2016 the petitioner and his concubine by name Manda Nirmala beat the first respondent near Kaleswara Rao Market, Vijayawada. On such incident, the first respondent gave a complaint to the police of I-Town Police Station and the same was registered as Crime No.59 of 2016 for the offence under Section 323 r/w 34 IPC against the petitioner and his concubine. Finally, on 24.01.2016, the petitioner and his mother necked out the first respondent from the matrimonial home. On that, she filed a

complaint on 24.02.2016 before the police and the same has been registered as Crime No.62 of 2016 for the offence under Section 498-A IPC against the petitioner, his mother and his two sisters. She also stated that the petitioner has completely neglected the first respondent. The petitioner is having properties and also running a kirana general and fancy shop and earning Rs.25,000/- per month. In those circumstances, she filed the maintenance case.

The petitioner filed a counter denying the averments made in the M.C. and contended *inter alia* that out of wedlock, they were blessed with a child and they led happy marital life for two years. Subsequently, the first respondent became very adamant and started harassing the petitioner without any fault on his part. She also used to visit her parents house very often without even informing the petitioner. He specifically stated that in the month of January, 2016, the first respondent went to her parents' house without his knowledge and later she did not turn up. He also stated that the first respondent is working as a nurse in the Mother and Children Hospital, Vijayawada and earning Rs.10,000/- per month and as such she is not entitled for any maintenance.

During the course of enquiry, to substantiate her case, the first respondent examined herself as P.W.1 and marked Exs.P.1 to P.6 on her behalf. The petitioner himself examined as R.W.1 but no documents are marked on his behalf. After hearing both the parties, the learned family judge allowed the M.C. in part by orders dated 23.02.2018, directing the petitioner herein to pay

maintenance allowance at Rs.8,000/- per month to the first respondent from the date of the application. Aggrieved by the same, the present Criminal Revision Case is filed.

The learned counsel appearing for the petitioner would contend that the petitioner is running a kirana general shop and earning a sum of Rs.8,000/- per month. In fact, the petitioner is maintaining their son and incurring heavy amounts on his education. The counsel also tried to produce the copies of the fee receipts issued by the concerned school. He also submitted that the first respondent is working as a nurse in the Mother and Children Hospital, Vijayawada and earning Rs.10,000/- per month. On these two grounds, the counsel submitted that the first respondent is not entitled for maintenance.

Per contra, the learned counsel appearing for the first respondent contended that the first respondent is not working as a nurse in the above said hospital and on the other hand, he brought to the notice of this Court that the petitioner is running a kirana general and fancy shop and earning Rs.25,000/- per month and therefore, contended that the maintenance as awarded by the Court below is not excessive.

Having heard both the counsel and after perusal of the material on record, it is revealed that the first respondent has filed not only the present M.C. against the petitioner herein, but she also filed a complaint under Section 498-A IPC since she was harassed and beaten up by the petitioner, his mother and his sisters. Though the first respondent categorically stated that the petitioner herein is earning a sum of Rs.25,000/- per month by

running a kirana general and fancy shop, no concrete evidence is produced before the Court below. At the same time, though the petitioner has stated that the first respondent is working as a nurse in the Mother and Children Hospital, Vijayawada and earning Rs.10,000/- per month, no evidence is produced. A further perusal of the impugned order would also reveal that the attempt made by the elders, who tried to mediate the matter between the parties for amicable settlement was also not materialized. The petitioner herein also filed a petition in O.P.No.142 of 2016 for divorce on the ground of cruelty, which is pending. When both the parties have taken respective pleas with regard to the running of a business as well as working as a nurse, none of them have produced any evidence to substantiate the same. However, the Court below taking into consideration the kirana shop being run by the petitioner and also in the light of the evidence of P.W.1, awarded a sum of Rs.8,000/- per month towards maintenance. When the petitioner failed to produce any evidence showing that the first respondent is having independent source of income, he is legally and morally liable to maintain the first respondent by paying an appropriate amount towards maintenance. Even otherwise, the petitioner being the husband is duty bound to maintain his wife. In these circumstances, this Court does not find any irregularity or illegality in the orders passed by the Court below in awarding a sum of Rs.8,000/- per month towards maintenance to the first respondent. As such there are no merits in the Criminal Revision Case and the same is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed.

Pending miscellaneous petitions, if any, shall also stand closed.

23rd JULY 2018.
Tsr

P.KESHAHA RAO,J

