

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1159 of 2018

ORDER:

Heard the counsel for the petitioner as well as the learned counsel appearing for the first respondent.

The present revision case is filed against the judgment dated 30.01.2018 passed in CrI.A.No.77 of 2017 on the file of the Court of the Family Judge-cum-Additional District and Sessions Judge, at Nizamabad confirming the orders passed in CrI.M.P.No.964 of 2015 in DVC No.64 of 2015 dated 26.08.2016 on the file of the Court of the II Additional Judicial Magistrate of First Class at Nizamabad.

The brief facts of the case are that the first respondent herein filed DVC No.64 of 2015 against the petitioners herein and others on the file of the II Additional Judicial Magistrate of First Class at Nizamabad seeking an order of protection prohibiting the respondents therein from causing domestic violence, for issuance of residential order, and for return of dowry amount of Rs.1,00,000/- and 5 tolas of gold ornaments etc. Pending the D.V.C., the first respondent filed a petition in CrI.M.P.No.964 of 2016, for grant of interim maintenance. The Court below by orders dated 26.08.2016 allowed the petition in part granting a sum of Rs.4,500/- per month towards maintenance to the first respondent herein and her minor child. Aggrieved by the said orders, the petitioners herein filed an appeal in CrI.A.No.77 of 2017 on the file of the Court of the Family Judge-cum-Additional District and Sessions Judge, at Nizamabad. After hearing, the learned Family Judge was pleased to dismiss the appeal by judgment dated 30.1.2018 confirming the orders passed

in CrI.M.P.No.964 of 2015 in DVC No.64 of 2015. Aggrieved by the said orders, the present criminal revision case is filed.

The learned counsel appearing for the petitioners would basically contend that the husband of the first respondent herein is working as mechanic in Kuwait and is drawing a salary of Rs.50,000/- per month. Therefore, the petitioners herein, are not liable to pay the maintenance to the first respondent, apart from other aspects. Per contra, the learned counsel for the first respondent supported the orders passed by both the Courts below.

Having heard both the counsel and after perusal of the material on record, it is revealed that the orders passed by the learned II Additional Judicial Magistrate of First Class, Nizamabad is only for a temporarily period to safeguard the interests of the first respondent during the pendency of the main DVC. A perusal of the said order would also indicate that the learned Magistrate has not appreciated the financial aspect as well as the income of the petitioners herein on any evidence. In fact, no concrete evidence is also placed before the Court below with regard to finally adjudicating the maintenance, *vis-à-vis*, the income of the petitioners herein. Therefore, this Court is not inclined to interfere with the orders passed by the Court below as confirmed by the lower appellate Court. As such, there are no merits in the criminal revision case and is liable to be dismissed.

IN THE RESULT, the criminal revision case is dismissed. The learned II Additional Judicial Magistrate of First Class is directed to dispose of the main DVC itself within a period of four months from the date of receipt of the copy of this order. It is needless to

observe that the arrears of maintenance as accrued till date, shall be paid by the petitioners within a period of three months from today.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date:26.06.2018.
CCM



HONOURABLE SRI JUSTICE P. KESHA VA RAO



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