

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.300 OF 2015

ORDER:

Heard the learned counsel for the petitioner. Pursuant to the orders of this Court dated 25.02.2015, though the notices taken out on the respondents 1 to 3 were served on first respondent, none appeared. In fact, the respondents 2 and 3 being the minors are represented by respondent No.1.

The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.136 of 2011 in M.C.No.42 of 2007, dated 15.12.2014 on the file of the Court of the Judge, Family Court, Warangal in enhancing the maintenance awarded to the respondents 1 to 3 from Rs.1,000/-, Rs.800/- & Rs.700/- per month to Rs.3,000/-, Rs.2,000/- & Rs.2,000/- per month respectively.

The facts, in brief, are that the first respondent herein is the legally wedded wife of the petitioner. Their marriage was performed in the year 1990. Out of the wedlock, they were blessed with respondents 2 and 3. At the time of marriage, huge amounts were paid towards dowry to the petitioner and his family members apart from the customary articles. After securing the Government Teacher job, the petitioner became greedy and started harassing the first respondent for additional dowry. Subsequently, disputes arose between the petitioner and the first respondent leading to filing of the present M.C. In the above said M.C., though notice was served on the petitioner, he remained absent and he was set ex parte. On the evidence let in, the

learned Family Judge, by orders dated 13.05.2008 allowed the M.C. in part awarding monthly maintenance of Rs.1,000/-, Rs.800/- and Rs.700/- to the respondents 1 to 3 respectively. Subsequently, in the year 2011, the respondents 1 to 3 filed CrI.M.P.No.136 of 2011 under Section 127 of Cr.P.C. seeking enhancement of maintenance. In the said petition, it is stated that the respondents 2 and 3 are studying IX & V class in a private school. The first respondent is paying huge amounts towards school fees apart from providing the basic facilities to the respondents 2 and 3. The first respondent is also incurring heavy expenditure towards their maintenance and nourishment apart from house rent, clothing etc. In these circumstances, they sought for enhancement of the maintenance. The petitioner filed a counter disputing the paternity of the respondents 2 and 3. The learned Family Judge, after hearing, was pleased to allow the said petition in part enhancing the maintenance to Rs.3,000/-, Rs.2,000/- and Rs.2,000/- per month to the respondents 1 to 3 respectively, from the date of the petition. Aggrieved by the same, the present Criminal Revision Case is filed.

The learned counsel appearing for the petitioner would contend that the maintenance as enhanced by the learned Family Judge, is high and without there being any material on record. The petitioner is taking steps to get the D.N.A. test to prove that the respondents 2 and 3 are not entitled for maintenance. The Court below also failed to appreciate the fact that the first respondent has forcibly taken possession of the agricultural land to an extent of Ac.1.20 gts., belonged to the petitioner and she is enjoying the usufructs of the same. Except the salary, the

petitioner does not have any source of income to maintain himself apart from paying maintenance earlier granted to the respondents 1 to 3. Therefore, he sought for reducing the enhanced maintenance.

Having heard the learned counsel for the petitioner and from the perusal of the material on record, it is revealed that the respondents 2 and 3, on the date of filing of the petition, were studying IX and V class respectively. It is stated in the petition that the first respondent was incurring expenditure towards their education in the form of school fee, stationery, maintenance of nourishment, house rent, clothing etc. Therefore, they were constrained to file the petition for enhancement of maintenance. In the counter, though the petitioner has taken a plea disputing the paternity of the respondents 2 and 3, he has not taken any steps. Though he has contended that the first respondent forcibly taken possession of agricultural land belonged to him and getting certain income by cultivating it, no evidence is produced to that effect. As far as the salary of the petitioner per month is concerned, the salary certificate produced shows that his gross salary is Rs.21,104/- per month, and net salary is Rs.17,406/-. The said salary was in the year 2014. Now, the salary of the petitioner would have been increased, but no latest certificate is placed by the petitioner before this Court. However, the petitioner being a Government Teacher, this Court presumed that he may be receiving salary not less than Rs.30,000/- per month. If the same is taken into consideration, the enhanced maintenance, more particularly, in the light of the education of the respondents 2 and 3, may not be excessive.

That apart, the petitioner being father, working as a Government Teacher, is legally and morally obligated to maintain his wife and children. He is also supposed to maintain them with the same standard of living in which he is leading his life. In these circumstances, looking at the present cost of living and rate of inflation, this Court is of the opinion that there is no irregularity or illegality in the orders passed by the learned Judge, Family Court, Warangal in enhancing the maintenance. There are no merits in the Criminal Revision Case and the same is liable to be dismissed.

The Criminal Revision Case is accordingly dismissed.

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

P.KESHAVA RAO,J

12th SEPTEMBER 2018.
Tsr

