

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.7010 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/husband, to quash the order, dated 13.07.2017, passed in CrI.R.P.No.4 of 2017, by the II Additional Sessions Judge, Karimnagar at Jagtial, whereby and whereunder, maintenance @ Rs.5,500/- per month granted to the 2nd respondent/wife by order, dated 02.11.2016, passed in M.C.No.11 of 2013, by the I Additional Judicial Magistrate of First Class at Jagtial, is reduced to Rs.4,000/- per month.

2. Heard the learned counsel for petitioner/husband, learned counsel for 2nd respondent/wife, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for petitioner/husband would submit that there was no legal marriage between the petitioner/husband and the 2nd respondent/wife. The 2nd respondent/wife received an amount of Rs.10,00,000/- from the Government of Telangana on account of commission of suicide by her son in Telangana agitation. This aspect was not taken into consideration by the Court below. Both the courts below erroneously held that there is marital relation between the parties. The maintenance granted is excessive and ultimately prayed to allow the application by setting aside the orders passed by both the Courts below.

4. The learned counsel for the 2nd respondent/wife supported the orders of the Courts below and ultimately prayed to dismiss the application.

5. The point for determination is whether the order, dated 02.11.2016, passed in M.C.No.11 of 2013, by the I Additional Judicial Magistrate of First Class at Jagtial, granting maintenance to the 2nd respondent/wife is liable to be quashed, so also the order, dated 13.07.2017, passed in CrI.R.P.No.4 of 2017, by the II Additional Sessions Judge, Karimnagar at Jagtial.

6. The learned counsel for the 2nd respondent/wife contended that the 2nd respondent/wife is the legally wedded wife of the petitioner. Her marriage with petitioner was solemnised on 19.07.1987. In the marriage, some cash and other valuables were given to the petitioner. Thereafter, she begot respondents 3 and 4 herein. Her other son committed suicide in Telangana agitation.

7. To substantiate her entitlement of maintenance, the 2nd respondent/wife deposed as P.W.1. She has also examined other independent persons as P.Ws.2 and 3 and got marked Exs.P.1 to P.7. On behalf of the petitioner, he deposed as R.W.1 and examined another person by name M.Devva as R.W.2.

8. The petitioner/husband contended that he married Rukmini, who is his legally wedded wife. Both the Courts below, having analysed the entire evidence on record, held that the respondent No.2 is the legally wedded wife of the petitioner and respondents 3 and 4 are their children. The trial Court took all the facts into consideration and ultimately held that there was wilful desertion on the part of the petitioner and the learned Magistrate, in M.C.No.11 of 2013, granted monthly maintenance of Rs.5,500/- per month to the respondent No.2. In the order, dated 13.07.2017, passed in CrI.R.P.No.4 of 2017, the

learned II Additional Sessions Judge, Karimnagar at Jagtial, reduced the monthly maintenance from Rs.5,500/- to Rs.4,000/-. The learned II Additional Sessions Judge, Karimnagar at Jagtial, has elaborately dealt with the contentions raised with regard to the relation between the parties as well as the entitlement of the respondent No.2 for maintenance, basing on the material on record. There was also a contention on behalf of the respondent No.2 that said Rukmini is a concubine of the petitioner. However, the findings recorded that the respondent No.2 is the legally wedded wife of the petitioner is supported by evidence on record, so also the desertion by the petitioner.

9. As far as the quantum of maintenance awarded, it appears to be quite reasonable. The cost of living now-a-days is very high and as the petitioner/husband is working as RTC Driver, it cannot be said that the maintenance granted is excessive. The petition is devoid of merit and is liable to be dismissed.

10. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

01st February, 2018
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