

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.2114 of 2010

ORDER:

The present revision case is filed questioning the order dated 17.02.2010 passed in M.C.No.13 of 2009 on the file of the Court of the Judge, Family Court-cum-Additional District Judge, West Godavari District at Eluru, in awarding a sum of Rs.2,000/- per month towards maintenance to the first respondent from the date of the order.

The facts of the case are that the first respondent is the legally wedded wife of the petitioner. Their marriage was performed on 23.05.2003 at Eluru as per the Hindu rites and customs. At the time of marriage, the parents of the first respondent gave an amount of Rs.5 lakhs to the petitioner and his parents as demanded by them towards dowry and gave Rs.1,00,000/- worth 'sare samans' apart from 30 sovereigns of gold. After the marriage, they lived together for some time. Later, the petitioner addicted to vices like drinking, womanizing and gambling and thereby he was living in adulterous life with one Vemula Parvathi who is an Anganvadi Teacher of Pyduripadu village. When the same was questioned, the petitioner started beating her in a drunken state and demanded additional dowry of Rs.5 lakhs at the instigation of his parents on the pretext of starting a business. Because of beating, the first respondent got abortion in the year 2007 and hospitalized for three months. Even-after discharge, the petitioner was demanding her to pay Rs.2 lakhs. Finding no other go, the parents of the first respondent paid Rs.1,50,000/- in the month of October, 2007. Thereafter the petitioner

allowed the first respondent into the matrimonial home. She also stated that in the month of January, 2008 her parents gave Rs.30,000/- and also furniture worth Rs.60,000/-. In spite of that, the petitioner did not mend his ways and harassing the first respondent. Finally, in the month of May, 2008 the petitioner necked out the first respondent from his house stating that he has no necessity to live with her. In those circumstances, the first respondent filed the maintenance case. As far as the financial capacity of the petitioner is concerned, the first respondent has stated that the petitioner is having landed property and getting income of Rs.1,00,000/- from it and he is also having kirana business and getting an amount of Rs.50,000/- per month out of the same. The petitioner filed counter denying the material allegations made against him and stated that he is getting only Rs.5,000/- to Rs.6,000/- per year and the kirana shop went into loss and closed the same and discharged the bank debt obtained under P.M.R.Y. Scheme. However, the petitioner is also ready to take back the first respondent to his house. The petitioner went into the clutches of one D. Sinivasa Rao and his wife Nageena Sultana Begum. The first respondent also filed O.S.No. 242 of 2008 demanding Rs.10 lakhs from the petitioner. After considering the oral as well as the documentary evidence adduced on behalf of the parties, the learned Family Judge allowed the maintenance case in part by order dated 17.02.2010 and awarded a sum of Rs.2,000/- per month towards maintenance to the first respondent from the date of the order. Aggrieved by the same, the present criminal revision case is filed.

As far as the contention of the first respondent with regard to harassment and leading of adulterous life by the petitioner, PW-2 who is the father of the first respondent categorically deposed that the petitioner developed illegal contacts with one Vemula Parvathi of Pydurupadu village and leading an adulterous life. PW-3 who is friend of PW-2 also corroborated the version of PWs.1 and 2 for separation and also the illegal contact of the petitioner with one Vemula Parvathi. The petitioner in his evidence though denied, have not examined any other independent witness to dispute the said allegations made against him by the first respondent. Basing on the said evidence and in the light of Ex.R-2, the certified copy of the proceeding in DVC No.10 of 2008 shows that some proceedings took place between the first respondent, the petitioner and his parents along with the said Vemula Parvathi. Therefore, in the absence of any clarification from the petitioner, the adulterous life of the petitioner with Vemula Parvathi cannot be ruled out. PW-3 who is an independent witness corroborated the evidence of PWs.1 and 2 in this regard. When once the said fact is established, it cannot be said that the first respondent has voluntarily deserted the petitioner. During the pendency of proceedings initiated by the first respondent in domestic violence case against the petitioner, his family members and the said Vemula Parvathi, the petitioner did not come forward with the plea of taking first respondent to his conjugal society. When the same has been proposed during the pendency of maintenance, it can be safely inferred that the said proposal is made only to avoid payment of maintenance. As far as the financial capacity of the petitioner is concerned, though he has

stated that he is getting Rs.5,000/- to Rs.6,000/- per month on the kirana shop and that too, was closed since he sustained loss, is not supported by any evidence. In fact, the petitioner is in a position to maintain the first respondent. That apart, the petitioner being the husband is legally and morally liable to maintain his wife with the same standard of life in which he is leading his life. Though, it is brought on record that the first respondent studied M.A.B.Ed. and she is having a separate share in her father's property, is not a ground to disentitle her from claiming maintenance. Appreciating the above said aspects and also analyzing the entire material on record, this Court is of the opinion that there is no irregularity or illegality in the orders impugned whereunder the petitioner was directed to pay a sum of Rs.2,000/- per month to the first respondent towards maintenance. As such, there are no merits in the revision and the same is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date:17.09.2018.
CCM

HONOURABLE SRI JUSTICE P. KESHA VA RAO



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