

**THE HON'BLE SRI JUSTICE P.KESHA RAO**

**CRIMINAL REVISION CASE No.1395 OF 2018**

**ORDER:**

This Criminal Revision Case is filed questioning the orders passed in M.C.No.380 of 2015, dated 24.04.2018 on the file of the Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court-cum-IX Additional Metropolitan Sessions Judge, Hyderabad, awarding a sum of Rs.7,000/- and Rs.3,000/- per month towards maintenance to the respondents 1 and 2 herein from the date of the petition i.e. 08.10.2015.

Heard the learned counsel for the petitioner as well as respondents 1 and 2.

The learned counsel appearing for the petitioner would contend that in the light of the evidence brought on record, the award of maintenance to the respondents 1 and 2 at the rate of Rs.7,000/- and Rs.3,000/- per month, is excessive. It is admitted by the first respondent in the cross-examination that she is earning a sum of Rs.4,000/- per month on tailoring work and Rs.5,000/- per month by teaching Arab in Shah Jilani Madarsa at Babanagar. The petitioner underwent bypass surgery in the year 2008 by using Arogya Shree Card and with the financial assistance of brother of the first respondent. The petitioner is suffering with chronic diabetics and the second toe of the right leg was also removed. He does not have any source of income to pay the maintenance. Therefore, the learned counsel for the petitioner strenuously argued that as far as the maintenance to the first respondent is concerned, the same has to be set aside.

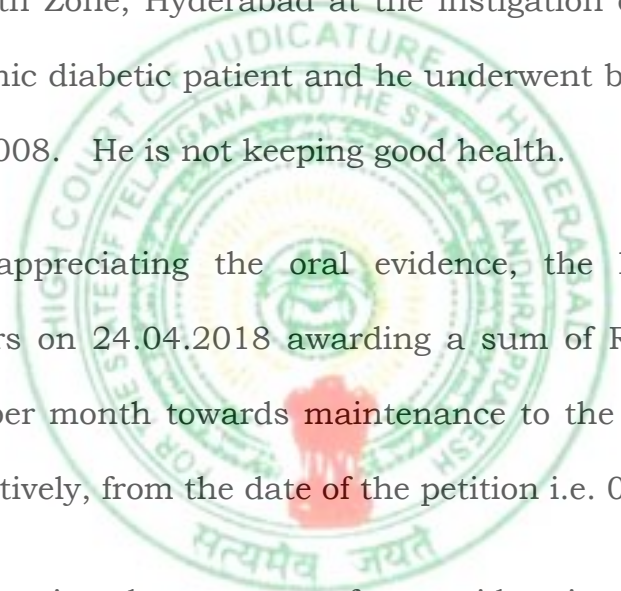
Per contra, the learned counsel appearing for the respondents 1 and 2 supported the impugned orders and submitted that the petitioner is having immovable properties in the form of two houses apart from the income derived from the scrap business. Therefore, the financial position of the petitioner is very sound and he can afford to pay the maintenance as awarded by the Court below.

Having heard both the counsel and from the perusal of the material on record, the admitted facts are that the respondents 1 and 2 herein are the wife and daughter of the petitioner. The marriage of the first respondent with the petitioner was performed on 11.03.1999 at Azampura, Hyderabad as per the Muslim Rites and Customs. At the time of marriage, the parents of the first respondent gave a sum of Rs.40,000/- in cash, 3 tulas of gold ornaments, 10 tulas of silver articles and a cash of Rs.20,000/- for purchase of vehicle and Jahez articles worth of Rs.1.00 lakh, to the petitioner. They have incurred Rs.1,50,000/- towards the marriage expenses. After the marriage, the first respondent led happy marital life for a short period. Thereafter the petitioner and his family members started demanding her to get additional dowry of Rs.50,000/-. When she expressed her inability, they have increased the harassment and made her to work as a servant. When the same was informed to her parents, with great difficulty, they have arranged Rs.20,000/- to the petitioner. They were blessed with second respondent in the year 2002. In the month of July, 2014, the petitioner and his family members have necked out the first respondent along with the second respondent from their

matrimonial house whereby she was constrained to file a complaint before the Women Police Station, South Zone, Hyderabad, leading to registration of a case for the offence under Section 498-A I.P.C. In those circumstances, she filed the above said maintenance case.

The petitioner filed counter denying the averments made in the M.C. and contended *inter alia* that he never received any dowry nor he subjected the first respondent to cruelty. In fact, the first respondent herself filed a false complaint with the Women Police Station, South Zone, Hyderabad at the instigation of her parents. He is a chronic diabetic patient and he underwent by-pass surgery in August, 2008. He is not keeping good health.

After appreciating the oral evidence, the learned Judge passed orders on 24.04.2018 awarding a sum of Rs.7,000/- and Rs.3,000/- per month towards maintenance to the respondents 1 and 2 respectively, from the date of the petition i.e. 08.10.2015.

The question that crops up for consideration in the present facts and circumstances of the case is, 'whether the first respondent is entitled for maintenance as awarded by the Court below?'.  


From the perusal of the material on record, P.W.1 in the cross-examination has categorically admitted that she is earning a sum of Rs.4,000/- per month by doing tailoring work at home and a sum of Rs.5,000/- per month by teaching Arab in Shah Jilani Madarsa at Babanagar, near to her house. As far as the petitioner is concerned, though the counsel for the respondents 1 and 2

submitted that he is doing scrap business, no evidence is placed on record. That apart, the petitioner underwent by-pass surgery in the month of August, 2008 apart from he being a chronic diabetic patient. That apart, his second toe of right leg was removed. He is physically weak and is not in a position to earn sufficient amounts. Even for the by-pass surgery he underwent, the brother of the first respondent has helped him financially. In these circumstances, this Court is of the opinion that the maintenance awarded to the first respondent at the rate of Rs.7,000/- per month is excessive and liable to be modified without disturbing the award of maintenance granted to the second respondent.

Accordingly, the Criminal Revision Case is allowed in part modifying the orders passed by the Court below in M.C.No.380 of 2015, dated 24.04.2018 to the extent of reducing the maintenance awarded to the first respondent from Rs.7,000/- per month to Rs.5,000/- per month. As far as the maintenance awarded to the second respondent is concerned, the same is not disturbed. It is needless to observe that the arrears of maintenance accrued, shall be paid to the respondents 1 and 2 at the above said rate within a period of six weeks from today. Failing which, the respondents 1 and 2 are at liberty to take steps for recovery, as per law.

Pending miscellaneous petitions, if any, shall stand closed.

**P.KESHA VA RAO,J**

10<sup>th</sup> AUGUST 2018.  
Tsr