

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1452 of 2018

ORDER:

Heard the learned counsel for the petitioners as well as the first respondent.

The present revision case is filed questioning the orders passed in CrI.M.P.No.38 of 2017 in CrI.A.No.86 of 2017 dated 17.05.2018 on the file of the Court of IX Additional Sessions Judge, Kamareddy, to the extent of granting stay of proceedings in DVC. No.2 of 2010 on the file of Judicial First Class Magistrate, Yellareddy on condition of petitioners herein depositing of half of the amount.

The facts in brief are that the first respondent herein filed DVC No.2 of 2010 against the petitioners herein for the reliefs under Sections 18 to 22 of the Act, on the file of Judicial Magistrate of First Class, Yellareddy, Nizamabad. It is her case that she is the legally wedded wife of the first petitioner herein. Their marriage was performed on 23.05.2002 at her parental house at Yellareddy as per the Rites and Customs prevalent in their community. At the time of marriage, her parents presented Rs.2,25,000/- in cash towards dowry and 10 Tulas of gold ornaments and utensils and articles worth Rs.15,000/- to the petitioners. After the birth of their daughter, the petitioners started harassing the first respondent physically and mentally. In spite of conducting panchayats, there is no change in the

attitude of the petitioners herein. Even the petitioners have not allowed the first respondent to meet her minor daughter who was staying in school at Bodhan. In fact, on 16.05.2010, the petitioners came to the house of the first respondent and threatened and demanded her to put her signatures on the blank papers for divorce. In those circumstances, the first respondent was forced to file complaint against the petitioners for the offence under Sections 498-A, 506 IPC and Sections 3 and 4 of Dowry Prohibition Act, apart from M.C.No.5 of 2010 claiming maintenance against the first petitioner. The first respondent also stated that the first petitioner having sufficient income and properties, intentionally deserted and neglected her. In fact, he is working as a Typist in R & B department drawing a salary of Rs.18,000/- per month. The first petitioner filed counter denying the averments made in the DVC and contended *inter alia* that at the time of marriage, the parents of the first respondent have not given any amounts much less the amounts as alleged in the petition. In fact, the first respondent herself used to quarrel with the petitioners for petty matters and used to beat the minor daughter without any reason. The first respondent does not have any love and affection towards her daughter and because of her abnormal behaviour, the minor daughter was scared to go to her mother.

To prove her contentions, the first respondent examined herself as P.W.1 and the first petitioner examined himself as R.W.1 apart from Smt.V.Vaishnavi Devi, as R.W.2.

The learned magistrate, after considering the matter, was pleased to allow the petition granting the reliefs under Sections 18 and 19 of the Act and as far as the monitory orders are concerned, the first petitioner was directed to pay a sum of Rs.10,000/- per month to the first respondent towards monthly maintenance starting from July, 2017 and Rs.30,000/- towards legal expenses, by orders dated 30.06.2017. Aggrieved by the same, the petitioners filed appeal in CrI.A.No.86 of 2017 on the file of the Court of the IX Additional Sessions Judge, Kamareddy. Pending the appeal, the petitioners filed a petition vide CrI.M.P.No.38 of 2017 seeking stay of all further proceedings including the execution of orders in DVC No.2 of 2010. The learned Additional Sessions Judge, after hearing, was pleased to grant stay on condition of depositing half of the amount granted in DVC No.2 of 2010, dated 30.06.2017, by orders dated 17.05.2018. Aggrieved by the said orders, the present revision is filed.

The learned counsel appearing for the petitioners contended that passing of a conditional order while granting the stay, is erroneous. The lower appellate Court failed to consider that the first respondent is not entitled for any maintenance since the DVC, as filed by the first respondent, itself is not maintainable. He also submitted that the learned

Magistrate exceeded in his jurisdiction in granting reliefs to the first respondent which are not even asked in the DVC i.e. granting maintenance at the rate of Rs.10,000/- per month and house rent allowance at Rs.5,000/- per month respectively. Though Section 22 of the Act does not contemplate litigation expenses, a sum of Rs.30,000/- has been granted, apart from other aspects.

The learned counsel appearing for the first respondent supported, the orders impugned in the present revision and requested to dismiss the revision.

Having heard both the counsel and from the perusal of the material on record, it is revealed that the first respondent filed DVC No.2 of 2010 against the petitioners herein seeking various reliefs. The learned magistrate, by orders dated 30.02.2017, granted reliefs under Sections 18 to 20 and 22 of the Act. Aggrieved by the said orders, the petitioners filed Crl.A.No.86 of 2017 on the file of IX Additional Sessions Judge, Kamareddy. In the petition filed under Section 397(1) of Cr.P.C. seeking stay of all further proceedings in the DVC, the lower appellate Court granted stay on condition of petitioners depositing half of the amount granted in the DVC. The validity of the orders passed by the lower appellate Court vis-à-vis the merits in the appeal cannot be decided in an interlocutory application filed seeking stay of the orders. In the impugned orders, the lower appellate Court directed the petitioners to deposit half of the amount as awarded vide

orders dated 30.06.2017. From the perusal of the reliefs sought in the DVC, it is evident that the learned magistrate, has granted the reliefs which are not even asked and the same is subject-matter of the appeal. In that view of the matter, this Court is of the view that it cannot express any opinion on the merits of the case. As far as the interim order passed by the lower appellate Court subject to depositing of half of the amount is concerned, there is some force in the contention raised by the counsel for the petitioners based on facts of the case. Therefore, this Court feels it appropriate to direct the learned IX Additional Sessions Judge, Kamareddy to dispose of the Criminal Appeal itself, within a stipulated period subject to the petitioners depositing half of the amount within a period of six weeks from the date of receipt of a copy of the orders.

Accordingly, the Criminal Revision Case is disposed of directing the learned IX Additional Sessions Judge, Kamareddy to dispose of CrI.A.No.86 of 2017 itself within a period of four months from the date of receipt of a copy of the order.

Miscellaneous petitions, if any, shall stand dismissed.

P. KESHA RAO, J

Date: 18.07.2018.
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