

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.2471 of 2014

ORDER:

Heard the learned counsel for the petitioner.

The present revision case is filed questioning the orders passed in CrI.M.P.No.65 of 2012 in M.C.No.77 of 2008 dated 27.10.2014 on the file of the Judge, Family Court-cum-III Additional District and Sessions Judge, Warangal, enhancing the maintenance from Rs.5,000/- per month to Rs.10,000/- per month to respondent Nos.1 to 3 i.e., the 1st respondent is entitled for a sum of Rs.3,000/- per month and the 2nd and 3rd respondents are entitled for a sum of Rs.3,500/- each per month.

The facts in brief are that the 1st respondent is the legally wedded wife of the petitioner. The marriage between them was performed on 19.03.1994 at Warangal. Out of wedlock, they were blessed with respondent Nos.2 and 3. The petitioner after getting a job in Singareni Collieries started harassing the 1st respondent for additional dowry of Rs.1 lakh. Several panchayats were held before the caste elders, but all were in vain. On 24.12.2007, the petitioner made an agreement and signed before the elders that he would take care of respondent Nos.1 to 3, but he failed to turn up. In fact, the petitioner developed illegal intimacy with another woman. On 21.02.2008, the petitioner came in drunken state, abused the 1st respondent and their children, beat them indiscriminately and pushed the 1st respondent to the wall. She suffered an injury and fell down unconscious. On the arrival of the parents of the 1st respondent, a complaint was lodged for the offence under Section 498-A IPC and Sections 3 and 4 of the

Dowry Prohibition Act, vide Crime No.42 of 2008. In those circumstances, respondent Nos.1 to 3 were forced to file M.C.No.77 of 2008 claiming a sum of Rs.3,000/- each per month towards maintenance against the petitioner on the file of the Family Court, Warangal. On contest, the said petition was allowed in part by orders dated 29.01.2011 granting a sum of Rs.1,000/- per month to the 1st respondent and Rs.2,000/- each per month to respondent Nos.2 and 3 from the date of the order. Subsequently, in the year 2012, respondent Nos.1 to 3 filed a petition under Section 127 Cr.P.C., seeking enhancement of maintenance vide Crl.M.P.No.65 of 2012. After hearing, the said petition was allowed in part by orders dated 27.10.2014, directing the petitioner to pay a sum of Rs.3,000/- per month to the 1st respondent and Rs.3,500/- each per month to respondent Nos.2 and 3 towards maintenance. It is also mentioned in the order that the 2nd respondent is entitled to the enhanced rate of maintenance from the date of petition till the date of attaining majority only. Aggrieved by the said order, the present revision case is filed.

Learned counsel appearing for the petitioner submitted that the impugned orders in the present revision case cannot be sustained in law since the enhanced maintenance amount is without any evidence on record. The petitioner is working as a Fitter in Singareni Collieries and is drawing a net salary of Rs.19,366/-. In fact, the petitioner is taking care of the education of respondent Nos.2 and 3 and is paying the requisite fee. To substantiate the same, the petitioner filed the receipts issued by S.R. Educational Academy in the material which shows that he is paying tuition fee and hostel expenses. Therefore, the

maintenance amount, as awarded, is excessive. He also contended that the 1st respondent voluntarily left the company of the petitioner.

Having heard the learned counsel for the petitioner and from a perusal of the material on record, the only question that crop up for consideration is:

Whether the maintenance amount as enhanced is excessive?

It is further revealed during the course of the proceedings that the salary certificate of the petitioner has been produced. It discloses that his gross salary for the month of February 2012, is Rs.31,814/- and the net pay is Rs.19,366/- and 61 ps. Admittedly, the petitioner is working as a Fitter in Singareni Collieries Company Limited. However, the present salary certificate is not produced before this Court.

Be that as it may, when respondent Nos.2 and 3 are pursuing their studies, it cannot be said that the petitioner cannot pay the enhanced maintenance. In fact, from the perusal of the cause title, it appears that the 2nd respondent has already become major. So she is entitled to maintenance till she attains the majority. Similarly, respondent No.3, whose age was shown as 6 years, cannot be said as to whether he has become major or not. However, he is also entitled for maintenance till he attains majority. When it is not brought on record that the 1st respondent can maintain herself having her own source of income, it is the bounden duty of the petitioner to maintain her. When the petitioner is working as Fitter in the Singareni Collieries Company drawing a salary of Rs.30,000/- and odd in the year 2012, this

Court can safely presume that his present salary would have been about Rs.45,000/- per month. When the petitioner is drawing such salary, he is expected to maintain the 1st respondent and his children, with the same standard in which he is leading his life. Nowadays, looking at the cost of living and the rate of inflation, Rs.3,000/- per month towards maintenance, at any stretch of imagination, cannot be treated to be excessive. In the case on hand, when respondent Nos.2 and 3 have already become major, the 1st respondent has to run the family with a meagre sum of Rs.3,000/- per month.

In that view of the matter, this Court is not inclined to interfere with the orders impugned in the present revision case. There are no merits and the revision case is liable to be dismissed.

Accordingly, the criminal revision case is dismissed. It is needless to observe that respondent Nos.2 and 3 are entitled for maintenance till they attain majority only.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 10.09.2018.
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