

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1559 of 2017

ORDER:

Heard the learned counsel for the petitioner as well as the respondents.

The present revision case is filed questioning the orders dated 15.02.2016 passed in M.P.No.157 of 2015 in M.C.No.72 of 2015 on the file of the Court of the Family Judge at Secunderabad granting interim maintenance @ Rs.6,000/- and Rs.4,000/- per month to respondent Nos.1 and 2 respectively from the date of the petition during the pendency of the main case.

The facts of the case are that respondent Nos.1 and 2 herein filed a maintenance case vide M.C.No.72 of 2015 against the petitioner herein claiming a sum of Rs.12,000/- and Rs.6,000/- per month respectively towards maintenance. It is their case that respondent No.1 is the legally wedded wife of the petitioner. Their marriage was solemnized according to Hindu rites and customs on 06.05.2011 at Secunderabad. Out of the wedlock respondent No.2 was borne. After the marriage, the 1st respondent joined the matrimonial society of the petitioner. However, the petitioner and his parents started harassing respondent No.1 physically and mentally for additional dowry. In fact, the petitioner also misrepresented about his educational qualification as M.B.A., but he was only a Bachelor of Business Administration degree

holder. Respondent No.1 was assaulted by the petitioner and his parents on several occasions, but she tolerated the same with the fond hope that one day or the other the petitioner would realize his mistakes but all were in vain. In the meanwhile, respondent No.1 gave birth to respondent No.2 on 18.09.2013 at Secunderabad. Even after respondent No.2 was borne, the petitioner and his parents continuously harassed respondent No.1 physically and mentally demanding additional dowry. When the 1st respondent became pregnant for second time, the petitioner and his parents forced her to get abortion and on 26.05.2014 she was sent to her parents' house at Secunderabad. Thereafter, a divorce notice was sent from the Family Court, Chennai, on the alleged ground of cruelty. In those circumstances, the 1st respondent filed the maintenance case. Pending the main case, respondent Nos.1 and 2 filed a petition for interim maintenance claiming a sum of Rs.12,000/- and Rs.6,000/- per month respectively towards maintenance from the petitioner. The petitioner filed counter and contested the same. After hearing, the Court below was pleased to allow the petition in-part by orders dated 15.02.2016 awarding a sum of Rs.6,000/- and Rs.4,000/- per month to respondent Nos.1 and 2 respectively. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that without there being any evidence, the Court

below has passed the impugned orders. The Court below committed an error in shifting the burden of proof of negligence and refusal to maintain on the petitioner in the absence of any proof from respondent No.1. Learned counsel also brought to the notice of the Court that the Court below has not taken into consideration the fact that the 1st respondent was able to secure a job since she was doing job earlier i.e., prior to the marriage. Finally, he argued that the interim maintenance amount of Rs.10,000/- per month is on higher side.

Per contra, the learned counsel appearing for respondent Nos.1 and 2 supported the impugned order passed by the Court below.

The point for consideration is:

Whether the interim maintenance as awarded by the Court below is justifiable in the facts and circumstances of the case particularly till the disposal of the main maintenance case?

A perusal of the material on record would reveal that the petitioner is working as an Executive Accountant in Odyssey Technologies (P) Limited at Nungambakkam, Chennai, since October 2006, and was drawing gross salary of Rs.35,000/- per month and net salary of Rs.34,317/- per month. Respondent No.1 was dependant on her father and therefore she requires maintenance for herself and respondent No.2. Though the petitioner has stated that the 1st respondent is highly qualified, he never stated that she is

working and eking her livelihood. It is relevant to note that the petitioner, as indicated from the impugned order, was willing to pay maintenance to respondent No.2, but he made several allegations against respondent No.1, which are not relevant for the present case. The amount as awarded under the impugned orders is only an interim measure till the disposal of the main case. In the present day, the cost of living as well as inflation has increased abnormally. When the 1st respondent is not working and is dependant on her father, it is difficult for her to maintain not only herself but also respondent No.2. That apart, the petitioner is drawing net salary of Rs.34,317/- per month and is under a legal as well as moral obligation to maintain respondent Nos.1 and 2.

On 14.06.2017, this Court granted interim stay as prayed for subject to the condition that the petitioner deposits the entire arrears of maintenance up to date within six weeks from the date of receipt of a copy of the order and continue to pay monthly maintenance regularly @ Rs.4,000/- and Rs.3,000/- to respondent Nos.1 and 2 respectively until further orders. However, it was made clear that any payments made earlier shall be given credit while calculating and depositing the arrears of maintenance as ordered supra.

Having regard to the facts and circumstances of the case, more particularly, the interim arrangement as made by this Court on 14.06.2017, this Court feels it appropriate to

direct the trial Court to dispose of the main maintenance case itself within a stipulated period.

Accordingly, the criminal revision case is disposed of directing the petitioner to pay interim maintenance @ Rs.4,000/- and Rs.3,000/- per month to respondent Nos.1 and 2 respectively. This arrangement shall be continued till the disposal of the main case. However, the Court below is directed to dispose of the main maintenance case as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, shall also stand disposed of.

P. KESHAVA RAO, J

Date: 07.06.2018.
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