

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.800 OF 2005

ORDER:

Heard the learned counsel for the petitioners.

2. Pursuant to the orders dated 11.6.2018, personal notice taken on the 1st respondent was served and proof of service is filed vide memo bearing USR.No.39200 of 2018 dated 27.6.2018. However, there is no representation on behalf of the 1st respondent.

3. The present Criminal Revision Case is filed against the orders passed in M.C.No.111 of 2004 dated 9.3.2005 on the file of the Court of Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, Hyderabad.

4. The facts of the case are that the petitioners 1 to 3 herein have filed M.C.No.111 of 2004 against the 1st respondent herein on the file of the above said Court. It is the case of the 1st petitioner that her marriage with the 1st respondent was performed on 11.10.1999 with a deferred dower of Rs.1,00,000/-. At the time of marriage, her parents gave Rs.2,00,000/- as dowry apart from 30 tolas of gold. Out of the wed-lock, they were blessed with the petitioners 2 and 3 herein. However, the 1st respondent and his family members

demanded additional dowry of Rs.2,50,000/- and 40 tolas of gold and the same was arranged by the father of the 1st petitioner. Even then, the petitioners were necked out of the house on 14.4.2004. In those circumstances, the above said maintenance case was filed.

5. The 1st respondent herein filed counter in the said M.C.No.111 of 2014, denying all the material allegations made in the maintenance case and inter-alia contended that he pronounced divorce to the 1st petitioner on 19.4.2004. Prior to that, he made reconciliation twice i.e., on 1.3.2004 and 10.3.2004 in the presence of the elders but in vain. He alleged that the 1st petitioner was consuming alcohol and in spite of his efforts she failed to mend her ways. In fact, on 14.4.2004, she picked up a quarrel and abused his parents and went away voluntarily along with children.

6. To prove her case, the 1st petitioner examined herself as PW1 and the 1st respondent examined himself as RW1. On behalf of the petitioners, no document was marked. However, on behalf of the 1st respondent, Exs.R1 to R6 have been marked.

7. The Court below, after hearing, was pleaded to allow the maintenance case in part on 9.3.2005, directing the 1st respondent herein to pay maintenance to the 2nd and 3rd

petitioners herein@ Rs.2,000/- per month each from the date of application i.e., 10.6.2004 and as far as the 1st petitioner is concerned, the claim of maintenance has been dismissed. Aggrieved by the said orders, the present Criminal Revision Case is filed.

8. Learned counsel for the petitioners would contend that the maintenance awarded by the Court below to the petitioners 2 and 3 is too meagre compared to the income of the 1st respondent herein. He also contended that the rejection of maintenance to the 1st petitioner on the premise that a divorced muslim woman is not entitled for maintenance Under Section 125 of Cr.P.C., is opposed to all canons of law and the same has to be set aside. In the present day circumstances, it is very difficult to sustain with the meagre maintenance of Rs.2,000/- p.m. each to the petitioners 2 and 3. The 1st petitioner, with great difficulty, is maintaining the petitioners 2 and 3 apart from maintaining herself. In these circumstances, the counsel requested the Court to enhance the maintenance amount to the petitioners 2 and 3 and to grant maintenance to the 1st petitioner.

9. Having heard the submissions made by the counsel for the petitioners and a perusal of the order would indicate that the reason given by the learned Additional Metropolitan

Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, Hyderabad, that a divorced muslim woman is not entitled for maintenance as per Section 125 of Cr.P.C., is not correct. As far as this aspect is concerned, some of the relevant portions in the examination of RW1 have to be considered and the same are as under:

“The Respondent in his evidence as RW1 stated as follows:

“I have not deposited the Iddat period maintenance before the Qazi.

I cannot give the date when I gave the Maher amount to the first petitioner.”

10. Therefore, in view of the admission made by the 1st respondent, it can be safely inferred that the 1st respondent has not paid either the iddat period maintenance or the maher amount to the 1st petitioner. The 1st respondent miserably failed to produce any evidence either oral or documentary with regard to the payment of Iddat period maintenance or maher amount. In such circumstances, the Court below cannot hold that the 1st petitioner is not entitled for maintenance amount.

11. As far as the financial aspect of the 1st respondent is concerned, the 1st respondent himself, in the cross-examination, admitted as under:

“I was getting an amount of Rs.20,000/- to 22,000/- per month after all the expenses of my business and I was giving Rs.18,000/- to her for maintaining family.”

...

“witness again adds that I was having those Auto Trallies till October, 2003.”. “It is true that I was having the Lorry bearing No.AP 11 U – 7559 but I have transferred it to the present dealer.” “I have not filed any document to show that I transferred the vehicles in the name of the present dealer, but, I can file it.”

12. When the 1st respondent himself has deposed that he was giving Rs.18,000/- p.m. to the petitioners for maintaining the family, awarding of maintenance @ Rs.2,000/- p.m. each to the petitioners 2 and 3 is too meagre. The reason on which the 1st petitioner was rejected the maintenance is also not sustainable.

13. In these circumstances, this Court, after evaluation of the entire evidence on record, is of the opinion that the ends of justice would meet if the maintenance is enhanced to Rs.5,000/- p.m. each to the petitioners 2 and 3 and to grant Rs.5,000/- p.m. to the 1st petitioner.

14. Accordingly, the Criminal Revision Case is disposed of awarding an amount of Rs.5,000/- p.m. each to the petitioners 2 and 3 from the date of application and awarding an amount

of Rs.5,000/- p.m. to the 1st petitioner from the date of this order since all these years she sustained and maintained the petitioners 2 and 3.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

P. KESHA RAO,J

Date: 4.7.2018

KPM

