

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.2137 OF 2010

ORDER:

Heard the learned counsel for the petitioner and the first respondent.

The present Criminal Revision Case is filed questioning the orders passed in M.C.No.147 of 2009, dated 29.09.2010 on the file of the Court of the Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court-Cum-XXIII Additional Chief Judge, Hyderabad, granting a sum of Rs.7,500/- per month to the first respondent towards maintenance.

The facts, in brief, are that the first respondent herein is the legally wedded wife of the petitioner. Their marriage was performed on 21.06.2006. At the time of marriage, the petitioner was paid dowry apart from gold ornaments and other customary articles. After the marriage, the family members of the petitioner behaved with the first respondent in a very strange manner and teasing her without any reason. In fact, the petitioner and his family members harassed the first respondent for additional dowry. The first respondent was beaten up by the petitioner when the additional dowry was not brought by her. Since disputes arose in that regard, the first respondent was constrained to file M.C.No.147 of 2009. The petitioner filed a counter denying the material allegations made in the M.C. and contended *inter alia* that the first respondent lived with him only for 40 to 50 days. The first respondent could not lead happy marital life with him and in fact, she evinced no interest on him. He never demanded any

additional dowry as alleged by the first respondent. Neither he nor his family members harassed her for additional dowry. The petitioner is getting net salary of Rs.10,000/- only per month. The learned Family Judge, after hearing the parties and after appreciating the evidence brought on record, allowed the M.C. by orders dated 29.09.2010 directing the petitioner to pay a sum of Rs.7,500/- per month towards maintenance. Aggrieved by the same, the present Criminal Revision Case is filed.

Learned counsel appearing for the petitioner contended that the petitioner has not participated in the proceedings before the Court below while adjudicating the quantum of maintenance. He specifically contended that by virtue of the interim orders passed by this Court in CrI.R.C.M.P.No.371 of 2010 in CrI.R.C.No.266 of 2010, the learned Family Judge ought not to have proceeded with the matter. Since the Court below was proceeding with the matter in spite of the interim orders passed by this Court, the petitioner filed a memo to that effect and in those circumstances, he has not let in any evidence on his behalf.

Per contra, the learned counsel appearing for the first respondent supported the impugned orders and brought to the notice of this Court that the petitioner has also participated in the trial and in fact, costs were also imposed on him for not co-operating to dispose of the matter.

Having heard both the counsel and from the perusal of the material on record, the admitted facts are that the first respondent is the legally wedded wife of the petitioner and since disputes arose with regard to the additional dowry, the present M.C. came to be

filed against the petitioner. A perusal of the impugned orders passed by this Court in CrI.R.C.M.P.No.371 of 2010 in CrI.R.C.No.266 of 2010 would reveal that stay of all further proceedings were granted only in M.P.No.1362 of 2009 in M.C.No.147 of 2009 filed for grant of interim maintenance. Merely because stay was granted in the application filed for interim maintenance, that does not preclude the learned Family Judge to proceed further in the matter and decide the main M.C. itself. However, the contention advanced on behalf of the petitioner that prejudice has been caused to him in proceeding with the matter in spite of interim orders granted by this Court, is not tenable.

As far as the quantum of maintenance is concerned, the first respondent specifically pleaded in her petition that the petitioner is getting more than Rs.50,000/- per month as salary. Per contra, the petitioner stated that he is getting a net salary of Rs.10,000/- per month only. However, he has not filed any certificate as to what is the total salary and other particulars such as his designation and the organisation/institution in which he is working. In fact, when the first respondent has categorically pleaded that he is getting more than Rs.50,000/- per month and in the counter when he has disputed and stated that he is getting a net salary of Rs.10,000/- per month only, for obvious reasons, he has not filed the salary certificate into the Court. In fact, he is the best person with whom the evidence is available regarding his actual earnings per month. Therefore, when the petitioner has not come forward to place the truth before the Court, an adverse inference has to be drawn against him. Be that as it may, though the petitioner failed to produce the relevant evidence regarding his

monthly salary, the amount as fixed by the learned Family Judge, taking into the totality of circumstances, at Rs.7,500/- per month towards maintenance, at any stretch of imagination, cannot be said to be excessive more particularly looking at the present cost of living and the rate of inflation. Further the petitioner being the husband is legally and morally expected to maintain his wife with the same standard in which he is leading his life. Though the learned counsel appearing for the petitioner strenuously contended that the petitioner was not given an opportunity to participate in the proceedings on the ground that the Court below proceeded against the interim orders passed by this Court, the said contention cannot be accepted for the simple reason that the interim stay was granted only in the application filed for grant of interim maintenance. Therefore, this Court does not find any merit in the Criminal Revision Case to interfere with the impugned order and the same is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed.

Pending miscellaneous petitions, if any, shall also stand closed.

P.KESHAHA RAO,J

24th SEPTEMBER 2018.

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