

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6982 of 2018

ORDER :

The petitioner is husband of the 1st respondent and father of the 2nd respondent out of two children in the wedlock of petitioner and 1st respondent. Besides the 2nd respondent, there is a daughter by name, Asha Trishala, spinster, who present in the Court at the time of hearing argument submitting that she is a degree final year student educating by her father. In M.C.No.2 of 2012 maintained by the wife and son of the petitioner, maintenance awarded at Rs.3,000/- per month to each from the date of order 16.09.2016 and before that from the date of petition at Rs.2,000/- per month each. It is after appreciation of the three witnesses on behalf of the wife and minor son and two witnesses on behalf of the husband by referring to three documents Exs.P.1 to P.3. In the course of evidence by recall of RW.1 documents marked, which are Exs.R.1 to R.3 of which Ex.R.1 is a certificate of remuneration temporarily she was getting at Rs.6,000/- per month was placed reliance. Exs.R.1 to R.3 though reflected in the evidence of RW.1 not shown in the memo of evidence by the trial Court in its order. When impugned the same in revision C.R.P.No.204 of 2016 before the X Additional District and Sessions Judge at Rajahmundry, the learned Sessions Judge in the revision, modified the order of maintenance of Rs.3,000/- per month to the wife by its confirmation confined to the minor child till he attains majority and it was observed that Rs.6,000/- per month remuneration or salary as a temporary working by PW.1, wife of RW.1/husband, even

taken into consideration hardly sufficient for her bare survival including to the minor son, thereby from the means of the husband shown from the evidence taken at Rs.50,000/- what all awarded no way excessive. Same is the impugment herein before this Court in the present petition.

2. Heard both sides and perused the material on record.

3. The fact that she is getting Rs.6,000/- per month. Once taken into consideration in fixing the quantum, more particularly with detailed discussion by the lower revision Court, for this court, there is nothing to interfere. So far as the house property concerned what is reflected from the cross-examination of PW.1, what she stated is the house allotted in her name, but she did not know where it lies and its door number and whether it fetches any rent and who occupied etc., particulars, nothing shown of she is in possession and getting any rents therefrom. Once such is the case, in the absence of showing any means other than Rs.6,000/- per month what she was getting temporarily, there is nothing to interfere to said quantum till attaining of majority of the son and lifelong to the wife. Now it is brought to the notice of the Court in the course of hearing the criminal petition that she is now getting Rs.14,000/- per month enhanced amounts from such working. No doubt, the burden of paying maintenance to the son absolved after he attains majority from the lower revision Court that also to be taken into consideration.

4. Having regard to the above, that itself is not a ground for this court to interfere, much less to reduce the quantum other than giving

liberty to file any application under Section 127 Cr.P.C. if at all to modify the said quantum by such proof to decide on own merits any changed facts and circumstances.

5. With these observations, the criminal petition is disposed of.

Miscellaneous petitions pending, if any, in the criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

26th November 2018.

mar

