

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 2207 OF 2014

ORDER:

Heard the learned counsel for the petitioners.

The present Criminal Revision Case is filed challenging the orders passed in M.C.No.40 of 2010 dated 17.7.2014 on the file of the Court of the Judge, Family Court-cum-V.Additional District Judge, Tirupati in not awarding maintenance to petitioner No.1.

The facts in brief are that the marriage of petitioner No.1 with respondent No.1 was performed on 25.12.1993 at Kummarathopu Street, Tirupati according to the muslim customs. Out of the wed-lock, they were blessed with petitioner Nos. 2 and 3. In the maintenance case, petitioner No.1 has stated that respondent No.1 became selfish and wanted to earn money and in the process he used to do rituals on petitioner No.1 by pouring water on her and by taking her to burial ground etc., When petitioner No.1 refused, respondent No.1 used to threaten her to commit suicide. As far as petitioner No.2 is concerned, he was aged about 15 years and was studying 10th class. Respondent No.1 used to beat him also. In fact, on 26.1.2010, respondent No.1 beat petitioner No.1 without any reason and sent her away from his

house along with petitioner Nos. 2 and 3 demanding money. In those circumstances, the above said maintenance case was filed.

To prove her case, petitioner No.1 examined herself as PW1. But admittedly, she has not examined any other witness to prove the allegations made by her.

Per contra, respondent No.1 filed counter admitting his marriage with Petitioner No.1 and denied the material allegations made in the maintenance case and contended inter-alia that he was not given any cash or gold at the time of marriage. He never harassed or ill-treated petitioner No.1. In fact, since the date of marriage, petitioner No.1 had not stayed with him. She was very much attached to her mother and elder sister and she insisted him to get transferred to Tirupati or nearby place, though his job is not transferable and he cannot be transferred to Tirupati.

After a full fledged trial, learned Judge, Family Court, by order dated 17.7.2014 allowed the maintenance case in part awarding maintenance @ 3,000/- each per month to petitioner Nos. 2 and 3 alone from the date of the application making it clear that petitioner No.2 is entitled for maintenance till the date of attaining majority. As far as grant of maintenance to

Petitioner No.1 is concerned, it was dismissed. Aggrieved by the said orders, the present Criminal Revision Case is filed.

Learned counsel for the petitioner contended that learned Judge, Family Court, erred in not considering the claim of Petitioner No.1 for grant of maintenance to her. In fact, petitioner No.1 was harassed by respondent No.1 in many ways to earn money. On 26.1.2010, respondent No.1 beat petitioner No.1 without any reasonable cause and necked her out from the matrimonial home.

Having heard the submissions of the learned counsel for the petitioners and from the perusal of the material on record, it is revealed that petitioner No.1 has got lot of attachment with her mother and elder sister. In that process, without even informing to respondent No.1, petitioner No.1 went to Tirupati along with her mother and elder sister. On that aspect, learned Judge, Family Court, gave a categorical finding that petitioner No.1 herself voluntarily deserted respondent No.1 without any reasonable cause. Therefore, she is not entitled for any maintenance.

It is relevant to mention that in the cross-examination, PW1 has admitted that in January, 2010, she came to Tirupati along with her mother and elder sister, but according to her, she came to Tirupati by informing to respondent No.1. When

it was suggested that at that time, a mediation was held in the presence of Narasimhulu, Rafi, Lingaiah and Syed Basha and that in spite of their advice, she came to Tirupati along with her mother and elder sister, she denied the same. The cross-examination of PW1 further shows that respondent No.1 filed a petition against petitioner No.1 in the Family Court, Kurnool for restitution of conjugal rights and that it was decreed, but petitioner No.1 never joined respondent No.1. On the other hand, she deposed that due to fear towards respondent No.1 she did not join him. After analyzing the evidence brought on record, learned Judge, Family Court, held that petitioner No.1 herself went away from the house of respondent No.1 along with her mother and elder sister and she could not prove the allegations made by her with regard to the harassment meted out to her by respondent No.1, more so, that they were deserted and necked out by respondent No.1 from the matrimonial house on 26.1.2010.

In these circumstances, this Court does not find any merit with regard to declining of maintenance to petitioner No.1. As such there are no merits and the Criminal Revision Case is liable to be dismissed.

Accordingly, Criminal Revision Case is dismissed. It is needless to observe that this order does not preclude the

petitioner No.3 to move an appropriate application seeking enhancement of maintenance.

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

P. KESHA RAO,J

Date: 11.9.2018

KPM

