

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1000 OF 2010

ORDER:

Heard the learned counsel for the petitioner.

The present Criminal Revision Case is filed questioning the orders passed in M.C.No.78 of 2008 dated 22.03.2010 on the file of the Court of the Judge, Family Court, Secunderabad in awarding a sum of Rs.1,000/- per month towards maintenance to the first respondent herein.

The facts, in brief, are that the first respondent herein is the legally wedded wife of the petitioner and their marriage was performed on 05.05.1985 as per Hindu rites and customs. At the time of marriage, the parents of first respondent gave huge amounts apart from other customary articles. However, immediately, after marriage, the petitioner started harassing the first respondent for additional dowry. Though her parents fulfilled the said demand to some extent, the petitioner still continued his harassment. Finally, the petitioner necked out the first respondent from his matrimonial home and since then she has been living with her parents along with her son. In those circumstances, she filed the Maintenance Case. As far as the financial capacity and means of the petitioner is concerned, the first respondent has stated that the petitioner is working as a Mechanic in A.P.S.R.T.C. and earning a sum of Rs.10,000/- per month and therefore, he has got sufficient means to pay maintenance to her. The petitioner filed a counter denying the material allegations made in the M.C. and contended *inter alia* that

there was no marriage between him and the first respondent and she is not his legally wedded wife. In fact, the marriage of the first respondent with one Balakrishna was existing and the first respondent has got a daughter through him and she has not filed any document to show that she has taken divorce from her earlier husband. He also stated that the first respondent is having a house comprising of ground and first floor and she is getting rents of more than Rs.15,000/- per month. Apart from the same, she is earning a sum of Rs.10,000/- by doing tailoring work. The parties, to substantiate their contentions, examined themselves as P.W.1 and R.W.1 apart from R.W.2 and marked Exs.P.1 to P.13 and Ex.R.1 to R.5. Though the petitioner has taken a specific plea with regard to the factum of marriage of the first respondent with Balakrishna, the same was not suggested in C.C.No.1639 of 2005 in which the petitioner was acquitted for the offence under Section 498-A I.P.C. From this, it appears, the petitioner has taken the said contention only for the purpose of this case. Though the petitioner has taken the specific plea that the first respondent is having a house comprising of ground and first floor and she is getting a sum of Rs.10,000/- per month by doing tailoring work, he failed to prove that the first respondent was getting the said income. Though the petitioner has taken the said contentions, unless and until he produces requisite evidence, the same cannot be accepted. As far as the capacity and means of the petitioner to pay the maintenance is concerned, in the cross-examination, he has categorically admitted that he is working as Mechanic in A.P.S.R.T.C. and getting more than Rs.11,000/- per month as grass salary. As can be seen from Ex.P3 salary certificate, it is

revealed that his gross monthly salary is Rs.11,114/-. Therefore, it cannot be said that the petitioner has no means to pay the maintenance.

Now, coming to the aspect of whether the first respondent is entitled for maintenance or not, the first and foremost ingredient to be established is that the first respondent is not having any independent source of income and she cannot maintain herself. As far as that aspect is concerned, the learned Family Judge, after appreciating the evidence, categorically held that the petitioner miserably failed to prove that the first respondent is having an independent source of income and she can maintain herself. Then, coming to the capacity of the petitioner to pay the maintenance, in the cross-examination, the petitioner himself admitted that he is working as a Mechanic in A.P.S.R.T.C. and drawing a salary of Rs.11,000/- and odd per month. In that view of the matter, this Court cannot find any irregularity or illegality in the order passed by the learned Judge, Family Court in awarding maintenance at the above said rate to the first respondent. That apart, looking at the present cost of living and the rate of inflation, it is very difficult for a person to sustain with a meagre amount of Rs.1,000/- per month. Apart from the same, the petitioner being the husband of the first respondent is legally and morally under obligation to maintain her. Therefore, this Court does not find any merit in the Criminal Revision Case.

Accordingly, the Criminal Revision Case is dismissed.

As a sequel, the interlocutory applications pending, if any, shall stand dismissed.

P.KESHAVA RAO,J

17th SEPTEMBER 2018.
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