

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Crl.R.C.No.1050 of 2015

ORDER:

Challenging the order dated 22.04.2015 in FCOP No.1225 of 2010 on the file of Judge, Additional Family Court, Visakhapatnam awarding monthly maintenance at the rate of Rs.5,000/- to the respondent from the date of petition, the petitioner preferred the instant Crl.R.C.

2) The parties in this petition are referred as they were arrayed before the Trial Court.

3) The facts in nutshell are thus:

a) The marriage between the petitioner and respondent was performed on 17.05.2009 as per Hindu religious rites and customs at Rayagada; during the marriage, the parents of petitioner paid Rs.5 lakhs towards dowry besides other paraphernalia worth Rs.2 lakhs; after marriage the petitioner went to Visakhapatnam to lead marital life; the parents of the respondent used to scold the petitioner and her parents and treated her as their servant maid and did not provide proper food and never take care of her health; when the father of the petitioner visited her in-laws house at Visakhapatnam, the parents of respondent not only insulted him but also pounced upon to beat him without any reason; when she intervened to rescue her father, her father-in-law caught hold of her hair and drove away her from the

house and abused in filthy language and also demanded additional dowry of Rs.5 lakhs from her parents; the respondent not only refused but also neglected the petitioner without maintaining her; as she is unable to maintain herself, she is depending on her old aged parents; respondent is working in a private company at Hyderabad drawing salary of Rs.1 lakh per month. Hence, she filed FCOP No.1225 of 2010 for maintenance.

b) The respondent filed the counter and opposed the petition contending that petitioner has not approached the Court with clean hands and as such she is not entitled for any relief; he submits that before and after marriage she is working as Unit Manager in ICICI Prudential Bank, Rayagada; she used to come to Visakhapatnam once in a week; since from the marriage she is adamant and subjected him to cruelty both physically and mentally; petitioner always used to ask him to go over to her parents' house as illatom son-in-law; she left the matrimonial house on 19.11.2009 and went to her parents house taking all her belongings; the mediation talks through elders also failed; he further submits that petitioner had a love affair with her colleague at Rayagada; when the same is questioned, she lodged a complaint before Rayagada police; initially she filed a petition for maintenance and later filed petition for dissolution of marriage also.

c) After hearing both sides and considering the oral and documentary evidence, the trial Court allowed the FCOP awarding monthly maintenance of Rs.5,000/- from the date of petition payable

by the respondent on or before 10th of every succeeding month and also directed to pay the arrears in six equal monthly instalments.

Hence, the instant Criminal Revision Case.

4) Heard arguments of Sri Chetluru Srinivas, learned counsel for petitioner, Ms.M.S.V.S.Sudha Rani, learned counsel for 2nd respondent and learned Additional Public Prosecutor (AP) for 1st respondent.

5) Severely fulminating the order of the Trial Court in granting maintenance of Rs.5,000/- per month, learned counsel for petitioner would submit that admittedly the respondent is a MBA Post Graduate and also worked in ICICI Prudential Bank as Executive prior to the marriage and therefore, she is capable of earning decent amount to maintain herself. Further, she has not given any plausible answer as to why she was not doing the job. The Trial Court also observed that with her educational background, she can certainly get employment with her previous employer. The Trial Court having observed so, was wrong in awarding maintenance to the respondent. Sofaras the petitioner is concerned, learned counsel argued that he is not having job as he lost the same due to the complaint made by the respondent to his employer. The Trial Court observed that the respondent herein has not filed any document to show that her husband is doing the job. She has not filed any document to show that he is working and earning particular amount. Having made such observation, the Trial Court

ought not to have awarded maintenance to her. He thus prayed to allow the petition and set aside the order of the Trial Court.

6) Per contra, learned counsel for respondent/2nd respondent herein argued that the petitioner and his parents were guilty of committing cruelty towards her and on that basis the Trial Court granted divorce to her in FCOP No.1223/2010. Therefore, the respondent being a divorced wife is entitled to maintenance. She is now depending on her parents as she resigned her job in ICICI Prudential Bank even before her marriage. The petitioner has not produced any material to show that she is working either in ICICI Prudential Bank or in some other Organization and earning salary. The petitioner is concerned, he studied B.Sc, MCA and working as System Engineer in Siemen's Information Systems Limited at Delhi. Though he claimed that he lost his job, he did not produce any record to that effect. Considering all these circumstances, the Trial Court rightly awarded maintenance to respondent and there is no need to set aside the order.

7) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this Crl.R.C to allow?”

8) **POINT:** Admittedly the Trial Court granted divorce to respondent in FCOP No.1223/2010 on a succinct narration of the incidents, whereunder the petitioner and his parents meted the respondent with cruelty. The Trial Court observed that the petitioner

threw mud on the character of the respondent by imputing illicit relationship which would amount to cruelty. Therefore, as rightly argued by learned counsel for respondent, she being a divorced wife, entitled to maintenance. It is true that respondent earlier worked as Executive in ICICI Prudential Bank but her case is that she resigned the job even prior to the marriage. Neither party produced any evidence as to whether she is continuing in the job or she had resigned. Be that it may, the facts would show, she is able-bodied person and an educate and therefore, she can earn income. So is the case of the petitioner. As stated supra, he is a qualified B.Sc, MCA and is working as System Engineer, Associate Consultant in Siemen's Information Systems Ltd, at Gurgaon, Delhi. His case is that because of the complaint lodged by the respondent, he lost his job. No documentary evidence is produced by either party to know whether he lost the job or still working. So the facts would show that both the couple are educated and with some effort they can earn amount. The Trial Court having observed thus, still inclined to grant maintenance on the further observation that the Court already awarded interim maintenance to the respondent @ Rs.5,000/- per month and therefore, same amount can be awarded as regular maintenance.

9) On a careful scrutiny of the facts and evidence, this Court finds no illegality or perversity in the order impugned. It is true that the respondent is an educated lady. There is no clinching evidence showing that still she is working and earning amount. Therefore, her version that she resigned the job prior to her marriage has to be

accepted. That with her educational background, she can get employment and earn income is only a matter of assumption. Therefore, simply basing on her educational qualification, it is not apt to leave her forlorned without any maintenance. Since the Trial Court already granted interim maintenance considering the income of the respondent prior to her marriage and also the income of the petitioner, there was nothing wrong in Trial Court awarding some amount as regular maintenance. Further, having regard to the present day skyrocketing prices, maintenance of Rs.5,000/- per month to the wife as awarded by the Trial Court cannot be said to be an exorbitant one. Therefore, I find no merits in the Crl.R.C.

10) In the result, this Criminal Revision Case is dismissed by confirming the impugned order of the Trial Court.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 27.11.2018
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