

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.1123 OF 2017

ORDER:

This Criminal Revision Case is filed against the orders dated 10.02.2017 in M.C.No.188 of 2015 on the file of Court of XVI Additional District & Sessions Judge-cum-XVI Additional Metropolitan Sessions Judge-cum-III Additional Family Court, R.R.District at Malkajgiri, awarding a sum of Rs.8,000/- per month towards maintenance to the 2nd respondent herein.

Heard the learned counsel for the petitioner as well as the learned counsel appearing for the 2nd respondent.

The facts of the case are that the second respondent herein is the legally wedded wife of the petitioner. Their marriage was performed on 19.05.1985. Out of wedlock, they were blessed with three male children and one female child. Sometime after the marriage, the petitioner subjected the second respondent to mental and physical cruelty. In fact, the petitioner tried to kill the second respondent herein with a sickle on 24.05.2015. Since then, the second respondent along with her children is living separately. Since the second respondent is not having any means to maintain herself, she filed M.C.No.188 of 2015 before the Court below for grant of maintenance at the rate of Rs.30,000/- per month. It is the case of the second respondent that the petitioner being a Central Government employee, is earning a sum of Rs.60,000/- per month.

The petitioner filed a counter denying the allegations made in the M.C. and contending *inter alia* that he used to attend the

spiritual speeches of Christian religion and is leading a systematic life. The petitioner IS working in the E.C.I.L. as Cook and earning a net salary of Rs.10,000/- to Rs.15,000/- per month after all deductions such as loans etc. He has also stated in the counter that he is ready to take back the second respondent.

The second respondent herein examined herself as P.W.1. However, the petitioner has not examined anybody including himself. The court below after hearing, was pleased to allow the M.C. in part directing the petitioner to pay a sum of Rs.8,000/- per month towards maintenance apart from Rs.10,000/- towards costs of the petition. Aggrieved by the same, the present revision is filed.

The learned counsel appearing for the petitioner would contend that the maintenance amount awarded by the Court below is excessive and the petitioner is not in a position to pay the said amount. He also contended that the marriage between the parties took place 30 years back and he is ready to perform the marriages of their children. In these circumstances, the counsel for the petitioner requested the Court to reduce the maintenance amount.

Per contra, the learned counsel appearing for the second respondent supported the impugned orders and contended that the amount awarded by the Court below is too meagre compared with the income the petitioner is receiving.

Having heard both the counsel and after perusal of the material on record, the undisputed facts are that the petitioner and the second respondent are husband and wife and their marriage

was performed on 19.05.1985 and out of the wedlock, they were blessed with three male children and one female child and since 24.05.2015, the second respondent along with her children is living separately. As per the admission of the petitioner herein, he is receiving a net salary of Rs.10,000/- to Rs.15,000/- per month after deductions of loans and compulsory contributions. As far as this aspect is concerned, the specific case of the second respondent is that the petitioner being a Central Government employee is earning Rs.60,000/- per month. Though the petitioner is the best person to produce the evidence, which is in his custody in the form of salary certificate, he has not chosen to do so. When the petitioner failed to discharge the initial burden cast upon him to disprove that he is not receiving Rs.60,000/- per month or any other amount, an adverse inference has to be drawn against him. Be that as it may, whether or not the petitioner is receiving Rs.60,000/- per month, but considering the present day circumstances, the cost of living and the rate of inflation, this Court is of the opinion the amount of Rs.8,000/- per month towards maintenance of second respondent is not excessive and in fact, it is very difficult for her to maintain the family along with four children. In these circumstances, this Court is not inclined to interfere with the impugned orders passed by the Court below.

Accordingly, the Criminal Revision Case is dismissed.

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

P.KESHAHA RAO,J

04th JULY 2018.

Tsr

