

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1401 of 2014

ORDER:

Heard the learned counsel for the petitioner as well as the 1st respondent.

The present revision case is filed against the orders passed in F.C.M.C.No.5 of 2014 dated 13.06.2014 on the file of the Judge, Family Court-cum-III Additional District and Sessions Judge, Vizianagaram, awarding a sum of Rs.7,500/- per month towards maintenance from the date of filing of the petition to the 1st respondent.

The facts in brief are that the 1st respondent is the legally wedded wife of the petitioner. Their marriage took place 30 years back at Nellimarla. Out of wedlock, they were blessed with three children. Since the date of marriage, the petitioner is working as a Sweeper in Vizianagaram municipality. Sometime after marriage, the petitioner started harassing the 1st respondent for money and also on the ground that she has no capacity to earn money. The petitioner increased his harassment for the additional amount leading to filing of a complaint before the Station House Officer, II Town Police Station, Vizianagaram and the Women Police Station, Vizianagaram on 04.03.2013 and 13.03.2013 respectively. After counseling, the petitioner agreed to look after the 1st respondent properly. However, 15 days prior to filing of the maintenance case, the petitioner beat the 1st respondent indiscriminately and necked

her out from the matrimonial house. It is stated that the petitioner has got Rs.10 lakhs towards his retirement benefits and is getting Rs.15,000/- per month towards pension and earning not less than Rs.25,000/- per month on finance business. Therefore, the petitioner has got sufficient means and is liable to pay the maintenance for neglecting and maintaining the 1st respondent.

The petitioner filed his counter denying all the allegations made in the maintenance case and contended that the 1st respondent developed very much soft corner towards her three brothers and two sisters and used to divert the amounts towards them. In the guise of the loan amount, the 1st respondent diverted his huge earnings to her brothers and sisters. When their sons questioned the highhanded action of the 1st respondent, she bore grudge against them and the petitioner. In those circumstances, the present maintenance case was filed.

The learned Family Judge, after hearing the matter, was pleased to allow the F.C.M.C. in part by orders dated 13.06.2014, directing the petitioner to pay Rs.7,500/- per month to the 1st respondent towards maintenance from the date of the petition i.e., 28.01.2014. Aggrieved by the said order, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the petitioner is only a pensioner and is not in a position to pay the maintenance as awarded by the Court below. His monthly pension is only Rs.13,000/-. Apart from the same, he is also suffering with age related ailments.

Per contra, learned counsel appearing for the 1st respondent supported the impugned orders.

Having heard both the counsel and from a perusal of the material on record, the only issue that crops up for consideration is:

Whether the petitioner has got sufficient means to pay Rs.7,500/- per month towards maintenance to the 1st respondent?

Admittedly, the petitioner is a pensioner eking his livelihood on the pension amount of Rs.13,000/- per month. In the Court below, the 1st respondent demonstrated that apart from the pension, the petitioner is earning Rs.25,000/- from finance business and he got Rs.10 lakhs towards retirement benefits. Though the petitioner examined himself as RW.1, he has not produced any contra evidence to dispute the said contentions. In those circumstances, it cannot be said that the petitioner does not have any means to pay the said amount, but at the same time, this Court is conscious of the fact that the petitioner is only a pensioner aged about more than 60 years and suffering with age related ailments as submitted by the learned counsel for the petitioner. That apart, they have three sons, who are also under the obligation to maintain the 1st respondent. However, for the reasons best known to the 1st respondent, she filed the present maintenance case only against the petitioner. However, without going into the same, from the peculiar facts and circumstances of the case on hand, this Court deems it appropriate to reduce the maintenance to Rs.6,000/- from Rs.7,500/- per month. Except the above said

modification, the order of the learned Family Judge remains as it is.

With the above observation, the maintenance case is disposed of.

It is needless to observe that if any arrears of maintenance are due, it is always open for the 1st respondent to file an appropriate petition and seek remedies as per law.

Miscellaneous petitions, if any, shall also stand disposed of.

P. KESHAVA RAO, J

Date: 27.09.2018.
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