

THE HONOURABLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No. 2070 of 2014

ORDER :

The present Criminal Revision Case is filed against the orders passed in M.C.No. 34 of 2012, dated 4.9.2014 on the file of the Court of Judge, Family Court-cum-V Additional District and Sessions Judge, Tirupathi, awarding a sum of Rs. 10,000/- per month to the first respondent and Rs. 5,000/- each per month to the second and third respondents towards the maintenance from the date of the order.

The facts in brief are that the marriage of the first respondent with the petitioner was performed on 28.4.1999 at TMR Kalyanamandapam, Tirupati. At the time of marriage, the parents of the first respondent gave Rs.3,50,000/- and five sovereigns of gold to the petitioner and 50 sovereigns of gold to the first respondent. The parents of the first respondent spent Rs.5,00,000/- to perform the marriage. It is stated in the maintenance case that the family of the petitioner is maintaining wine shops at Railway Kodur and agricultural work at Cheeyavaram village. The petitioner and his father are in the habit of taking liquor every day. Since the first respondent was blessed with a female child in August, 2001, the petitioner and his family members developed dislike towards the first respondent. The mother of the petitioner and petitioner had taken away all the jewellery of the first respondent on the pretext of purchasing some lands in the name of the second respondent. On 17.5.2008, the first respondent was blessed with another female child. Thereupon, the petitioner and his family members started

harassing her for giving birth to a female child second time. The petitioner used to come in late night in a drunken state and used to beat the first respondent. The petitioner totally neglected the respondents 1 to 3. Apart from that, the petitioner was having illegal contacts with the maidservants and the same was supported by the mother of the petitioner. The petitioner and his mother abused the first respondent to die. With regard to financial status of the petitioner, the first respondent has categorically stated that the petitioner has got landed property and house and house plots at Railway Kodur, apart from two wine shops, by name Ganga Bhavani wines and Nithin wines at Railway Koduru. They got the said wine shops by paying Rs. 34,00,000/- to each shop and he is earning not less than Rs.1,50,000/- per month from the wine shops. The petitioner is also getting Rs. 5,00,000/- per annum from the agricultural lands.

Per contra, the petitioner filed a counter admitting the relationship with the respondents 1 to 3, but denied the material allegations made in the maintenance case with regard to the financial status and contended *inter alia* that he does not have the properties as mentioned by the first respondent and is not getting the income as stated. After contest, the Family Judge by order dated 4.9.2014 partly allowed the maintenance case and awarded a sum of Rs.10,000/- per month to the first respondent and Rs.5,000/- each per month to the second and third respondents from the date of order. Aggrieved by the same, the present Criminal Revision Case is filed.

The impugned order has been challenged in the Criminal Revision Case on the ground that the order under revision is vitiated on account of illegality and perversity in the findings of

the Court below. The Court below erred in awarding a sum of Rs. 10,000/- per month to the first respondent and Rs.5,000/- each per month to the second and third respondents. In the absence of any evidence on record, the Court below ought not to have held that the petitioner neglected the respondents 1 to 3 without any reasonable cause. In fact, the respondents 1 to 3 left the matrimony home without any reasonable cause. In fact, the petitioner issued notice dated 17.12.2012 asking the first respondent to join his conjugal society and lead amicable married life. It is also stated that the petitioner filed M.O.P.No.40 of 2014 for restoration of conjugal rights on the file of the Court of Senior Civil Judge, Rajampet which was pending consideration. It is also further mentioned that the amount awarded, as mentioned supra towards maintenance, is excessive.

The facts in brief are that the first respondent is legally wedded wife of the petitioner. Out of wed lock, they were blessed with respondents 2 and 3. Since disputes arose between the petitioner and the first respondent, the respondents 1 to 3 are living separately from the petitioner. To support her contention, the first respondent examined herself as PW-1, and examined one K.Vijayanarayana Reddy as PW-2. His evidence corroborated the evidence of PW-1 on the aspect of harassment as well as the financial capacity. On the other hand, the petitioner himself examined as RW-1 and examined one P.Vijayakumar as RW-2. The petitioner narrated what all stated in the counter in the chief examination. However, it is very much relevant that in the cross examination, he admitted that he had done arrack business for ten years and he is having wine shops in the name and style Gang Bhavani wine shop during the year 2012-13 and he paid license fee of Rs.35,00,000/- per annum. He has further admitted that

the Nithin wine shop was in the name of his father. In further cross examination on 17.3.2014, he admitted that he owned Ganga Bhavani wine shop during the year 2012-13 only and he paid Rs. 35,00,000/- to the Prohibition and Excise Superintendent, Kadapa. However, in the cross examination, he has denied the suggestion that he is owning a Chevrolet car bearing No.AP-04-6336 and he has got Acs. 40-00 cents land at Cheeyavaram. In fact, in the chief examination, he has admitted that he is having acrs. 10-00 land and out of the same, in acres 7-00, they are raising paddy crop and yielding 10 to 15 bags of paddy per acre.

From the evidence of PW-1 and PW-2, it is established that the respondents 1 to 3 have been harassed by the petitioner and his family members leading to separation and filing of the Maintenance Case. As far as the financial capacity and the means of the petitioner is concerned, the petitioner himself admitted in the cross examination that he is having two wine shops, apart from agricultural lands and other properties. When the petitioner has obtained the licence for the above two wine shops by paying a sum of Rs. 35,00,000/- towards licence fee to the Excise Department and prior to that they were doing arrack business, it cannot be said that the petitioner does not have means to pay maintenance to the respondents 1 to 3. Therefore, this Court is of the opinion that the petitioner shall be treated as a person with good financial capacity and he has got means to pay the maintenance. In the cross examination, the petitioner admitted that they were considered as Zamindars in their area. Therefore, considering the status of the petitioner and his family, apart from his income, he is expected to maintain the respondent Nos. 1 to 3 in the same standards of living which he is leading.

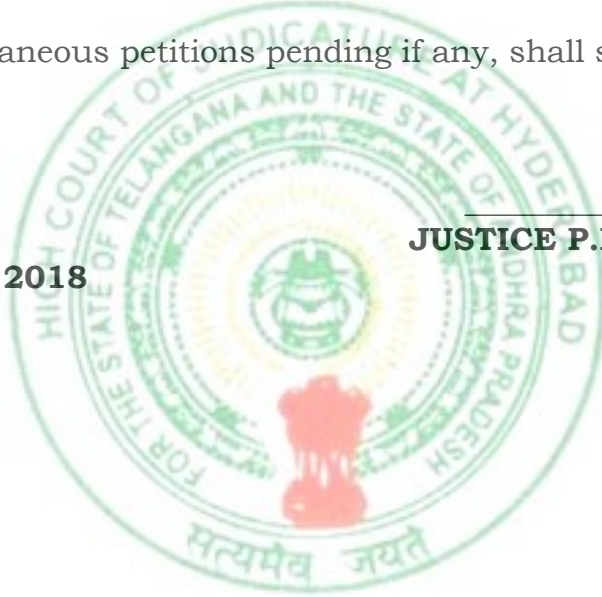
Be that as it may, the petitioner being the husband, he is legally and morally obligated to maintain the respondent No.1 being his wife and respondent Nos. 2 and 3 being their children. From the conspectus of evidence adduced on record, more particularly, with regard to the financial capacity of the petitioner, this Court is of the opinion that there is no irregularity or illegality in the orders passed by the Family Court in awarding maintenance to the respondents 1 to 3 as discussed supra. Thus, there are no merits in the Criminal Revision Case and the same is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions pending if any, shall stand closed.

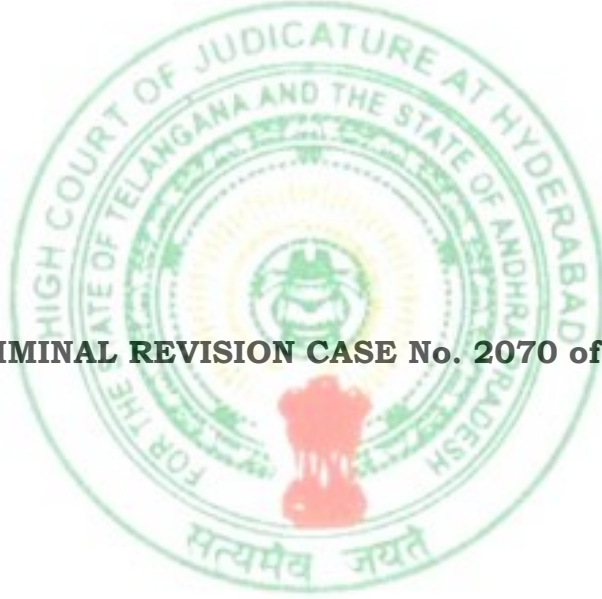
Date:10/09/2018
slk

JUSTICE P.KESHA RAO



THE HONOURABLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No. 2070 of 2014



Dated:10/09/2018

slk

