

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11376 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners/ respondents 1 to 3, seeking to set aside the order dated 18.09.2018 in CrI.MP.No.387 of 2018 in DVC No.22 of 2010 passed by the V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad.

2. The petitioners herein are respondents 1 to 3 and the 1st respondent herein is the petitioner in the above said D.V.C. In the said D.V.C. maintenance at Rs.20,000/- p.m. and Rs.15,000/- p.m. was awarded to the wife and her son respectively, against her husband by name, Oruganti Pardhasarathi, to be paid on or before 10th of every calendar month of previous month, while granting relief against respondents 1 to 3 of not to cause any acts of domestic violence against her and minor son wherever they reside and dismissed against respondents 4 and 5 viz., Orgathi Shyam Prasad and Lakshmi, who are residing in USA and that interim measure of residential order passed in CrI.MP.No.395 of 2010 holds good and her husband also directed to pay compensation of Rs.5,00,000/- in four equal installments within four months there from. Impugning the same, D.V.C.Appeal No.415 of 2018 filed by respondents 1 to 3 therein. It appears that the petitioner/ wife also filed an un-numbered appeal in

CrI.A.(S.R) No.8365 of 2018 against said respondents with a delay of 34 days in filing the appeal sought to condone in CrI.MP.No.2287 of 2018 and the same is pending, as can be seen from the served copy on the respondents before the learned Metropolitan Sessions Judge, Hyderabad. Whereas, the appeal filed by respondents 1 to 3 in D.V.C.Appeal No.415 of 2018 is pending before the V Additional Metropolitan Sessions Judge(Mahila Court), Hyderabad, wherein, though wife served, failed to attend with no representation. The grievance is in awarding maintenance of Rs.35,000/- p.m. mainly besides the compensation and other reliefs including against respondents 2 and 3 of DVC No.22 of 2010, it is pending appeal, they filed CrI.MP.No.387 of 2018 impugning the quantum of maintenance of Rs.35,000/- p.m. awarded.

3. One of the contentions herein in the present application is that already M.C.No.325 of 2009 on the file of the Additional Metropolitan Sessions Judge for the trial of JHCBBC-cum-Additional Family Court-cum-XXIII Additional Chief Judge, Hyderabad, was allowed under Section 125 Cr.P.C. wherein, maintenance of Rs.10,000/- p.m. each was granted to wife and minor son and thereby, the husband preferred CrI.R.C.No.2550 of 2011 and her in-laws filed CrI.R.C.Nos.45 and 161 of 2013 and by common order of this Court, dated 23.07.2014, the maintenance enhanced to Rs.35,000/- p.m. i.e. Rs.15,000/- p.m. to the wife and

Rs.20,000/- p.m. to the child and it is made clear that it includes the amount to be awarded in the D.V.C.

4. The learned Magistrate, where DVC No.22 of 2010 that was pending and disposed of, pursuant to the direction of this Court in the common order supra early, did not consider what was the maintenance awarded in M.C.No.325 of 2009 dated 27.11.2012, though the common order of three revisions supra clearly speaks what is the amount to be awarded in D.V.C. includes what is award in M.C. That petition so to consider was dismissed by the learned V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad, by the impugned order dated 18.09.2018. Undisputedly, the DVC Appeal No.415 of 2018 is pending and what was dismissed in impugment of quantum pending disposal of the DVC appeal in the CrI.MP.No.387 of 2018.

5. Having regard to the above, as the common revision order of this Court referred supra is very clear of what is the amount to be awarded in DVC includes the amount awarded in M.C. the liability of the petitioners, pending disposal of the appeal is whatever paid in M.C. to exclude out of Rs.35,000/- awarded in DVC, to pay the balance amount and it will not influence the mind of the Court in deciding the DVC Appeal on quantum but on own merits. The learned appellate Court in DVC Appeal No.415 of 2018 is directed to give early disposal of the DVC appeal, by virtue of this order and the learned

Metropolitan Sessions Judge, where the un-numbered appeal in CrI.A.(S.R) No.8365 of 2018 filed by the wife is pending, to transfer the same to the V Additional Metropolitan Sessions Judge(Mahila Court), Hyderabad, to decide both appeals together by condoning the delay subject to terms if any.

6. With the above directions, the Criminal Petition is disposed of without prejudice to all available defences of both parties on merits in the main DVC Appeals. The husband is directed to pay all the arrears within two months from the date of receipt of copy of this order in two equal installments. In the meantime, the arrest warrant issued if any for recovery of the amount is suspended. If he fails to pay the same within the aforesaid period, the arrest warrant, which is suspended by virtue of this order, ceases its suspension and can be enforced.

7. Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 15.11.2018
pab