

THE HON'BLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL REVISION CASE No.603 of 2015

ORDER:

Heard the learned counsel for the petitioner and learned counsel for the 2nd respondent.

The present Criminal Revision Case is filed in awarding a sum of Rs.4,000/- per month towards maintenance to the 2nd respondent in F.C.M.C.No.34 of 2013 dated 25.2.2015 on the file of the Court of the Family Judge, Kurnool.

The facts in brief are that the 2nd respondent herein is the legally wedded wife of the petitioner. Their marriage was performed on 10.6.1980 as per the Christian Religion and Customs. Out of their wedlock, they were blessed with two sons. Thereafter, the petitioner addicted to vices and developed illicit contact with another woman by name Prabhavathamma. The petitioner even tried to kill the 2nd respondent. The petitioner used to harass the 2nd respondent. Unable to bear the torture and since there was threat to her life, she went to her parents house. Per contra, the petitioner filed counter stating that the 2nd respondent left the conjugal society of the petitioner on the ground that unless and until a separate family is established, she will not join his conjugal society. Though the petitioner has stated that after issuance of notice asking the 2nd respondent to join his conjugal society, he filed O.P.No.65 of

1982 for restoration of conjugal rights. The said O.P. was decreed *ex parte*. In spite of the same, the 2nd respondent has not joined his conjugal society. Therefore, she is not entitled for any maintenance.

After considering the facts and appreciating the evidence on behalf of the parties, the learned Family Judge, by orders dated 25.2.2015, directed the petitioner herein to pay sum of Rs.4,000/- per month towards maintenance to the 2nd respondent. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel appearing for the petitioner contended that since the 2nd respondent deserted the conjugal society of the petitioner, she is not entitled for any maintenance. To support his contention, he relied on the notice issued for restitution of conjugal rights and the *ex parte* order passed in O.P.No.65 of 1982.

Per contra, the learned counsel appearing for the 2nd respondent would contend that the petitioner developed illegal contact with another woman by name Prabhavathamma. The petitioner went to the extent of killing the 2nd respondent. Unable to bear the torture and harassment in the hands of the petitioner, the 2nd respondent went to her parents house.. Therefore, she is entitled for maintenance.

After hearing both the counsel and from the perusal of the material available on record, particularly, the counter filed by the petitioner in F.C.M.C.No.34 of 2013, it does not show that the 2nd respondent voluntarily deserted the conjugal society of the petitioner without any reasonable cause. Perusal of the evidence of the petitioner also would not reveal that the 2nd respondent voluntarily deserted him. Therefore, the said ground is not available

to the petitioner in the present criminal revision case. However, the allegation with regard to harassment and torture meted out to the 2nd respondent and illegal intimacy of the petitioner with another woman by name Prabhavathamma has been established in the evidence of PW.1 and corroborated by the evidence of PW.2. Though it is denied by the petitioner in the cross examination that will not improve his case. Be that as it may, when once the petitioner admits that the 2nd respondent is his legally wedded wife and unless it is established by evidence that the 2nd respondent voluntarily deserted him without any reasonable cause, it is not open for the petitioner to contend that she is not entitled for any maintenance. The facts with regard to harassment and the petitioner developing illegal intimacy with another woman by name Prabhavathamma are the only factors which lead to 2nd respondent leaving his conjugal society.

Now coming to the aspect of the award of maintenance is concerned, when once the 2nd respondent is the legally wedded wife of the petitioner, he is legally and morally responsible to maintain her. The learned Family Judge, after appreciating the evidence, awarded a sum of Rs.4,000/- per month towards maintenance. Looking at the present cost of living and the rate of inflation, this Court is of the opinion that it is very difficult for a person to sustain with the said meagre amount. Therefore, this Court is not inclined to interfere with the orders passed by the learned Family Judge which are impugned in the present criminal revision case. There are no merits in the criminal revision case.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE P.KESHAVA RAO

Date: 04/09/2018

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