

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO.2629 OF 2017

ORDER:

1. Heard the learned counsel for the petitioner, learned counsel for the respondent No.1 and learned Public Prosecutor.
2. The present Criminal Revision Case is filed questioning the orders passed in M.C.No.272 of 2014 dated 21.8.2017 on the file of the Court of XIV Additional District and Sessions Judge-cum-Additional Family Judge at Vijayawada.
3. The facts of the case are that respondent No.1 herein filed M.C.No.272 of 2014 against the petitioner herein on the file of the above said Court claiming a sum of Rs.25,000/- p.m. towards maintenance from the petitioner herein. It is her case that her marriage with the petitioner was performed on 10.10.2010 as per Muslim rites and customs. They lived together in the house of the parents of the petitioner herein for one year. They led a happy marital life for some time. Four months after the marriage, the petitioner got addicted to vices and used to come to the house in a drunken state of mind and beat her indiscriminately and tortured her physically and mentally, due to which, she lost her four months pregnancy. Unable to bear the torture meted out to her, she left the matrimonial house on 15.2.2012 and went to her parents' house. On 2.6.2012, the petitioner herein went to her parents' house and beat her in their presence. On that, they lodged a complaint against the petitioner, which was registered as Cr.No.317

of 2012 under Section 498-A IPC. She is residing with her parents on their mercy. The petitioner is carrying on scrap iron business and earning approximately Rs.2,50,000/- p.m. Though he is having sufficient income, still he has neglected respondent No.1. Therefore, she filed a maintenance case.

4. The petitioner herein filed a counter admitting the relationship between him with respondent No.1 but contended that she filed a false case against him. Respondent No.1 herself, on her own accord, under the guise of going to her parents' house, left the conjugal society of the petitioner herein and never returned to the matrimonial home. In fact, respondent No.1 used the petitioner as a tool to see that her parents are financially settled and her sister's marriage is performed. After satisfying with all the said financial needs, respondent No.1 deserted the petitioner in order to prevent him from demanding the loan amount which was arranged by him at the time of her sister's marriage, apart from other aspects.

5. During the course of enquiry, respondent No.1 herein, to substantiate her case, examined herself as PW1 apart from another witness and got marked Exs.P1 to P4 on her behalf. The petitioner herein himself examined as RW1 and got marked Exs.R1 to R6 on his behalf.

6. Learned Family Judge, after hearing, was pleased to allow the maintenance case in part on 21.8.2017, directing the petitioner herein to pay maintenance @ 10,000/- p.m. from the date of filing

of the application. Aggrieved by the same, the present Criminal Revision Case is filed.

7. Learned counsel for the petitioner would contend that the maintenance awarded by the Court below is without any basis. Though respondent No.1 pleaded that the petitioner is earning a sum of Rs.2,50,000/- p.m. and leading a luxurious life, she has failed to produce any evidence to that effect. The Court below has also failed to appreciate that the petitioner is paying the debts incurred towards performing the marriage of the sister of respondent No.1. The Court below also has not considered the issuance of divorce certificate by the Wakf Board dated 10.4.2014 and the payment of Iddat amount to respondent No.1 by way of demand draft. The Court below also failed to appreciate the effect of Ex.R1 i.e., the certified copy of the judgment in C.C.No.1696 of 2015 on the file of the IV Additional Chief Metropolitan Magistrate, Vijayawada i.e., acquittal of the petitioner for the offence under Section 498-A IPC. The Court has also miserably failed to appreciate the documentary evidence adduced by the petitioner herein vide Exs.R1 to R6, more particularly, that they already got divorce and the Iddat amount was paid and the divorce certificate was issued by the Wakf Board.

8. Per contra, learned counsel for respondent No.1 supported the orders passed by the Court below.

9. Having heard both the counsel and from the perusal of the material on record, more particularly, the orders passed by the Court

below, it is revealed that admittedly, respondent No.1 is the wife of the petitioner, their marriage was performed on 10.10.2010 as per the Muslim rites and customs. Respondent No.1 left the matrimonial home on 15.2.2012 and went to her parents' house. When the petitioner beat her in her parents' house on 2.6.2012, she was constrained to file a complaint resulting in Cr.No.317 of 2012. Respondent No.1 stated that the petitioner is earning a sum of Rs.2,50,000/- p.m. on scrap iron business. The petitioner by way of counter, denied the material allegations and submitted that respondent No.1 used him as a tool to perform the marriage of her sister and to see that her parents are settled financially well and thereafter deserted him.

10. From the perusal of the evidence on record as well as the impugned orders, it is an admitted fact that the petitioner is doing business. According to him, he is getting an income of Rs.25,000/- p.m. But according to respondent No.1 he is getting an income of Rs.2,50,000/- p.m. Except her oral testimony, respondent No.1 has not produced any documentary proof to substantiate that the petitioner's income per month is Rs.2,50,000/- . The petitioner also worked as a Municipal Ward Member in Jagaiahpet Municipality. When the petitioner is having sufficient income, he is bound to maintain respondent No.1 legally as well as morally. It is also not the case of the petitioner that respondent No.1 is doing any job and she has her own income to maintain herself. Therefore, when

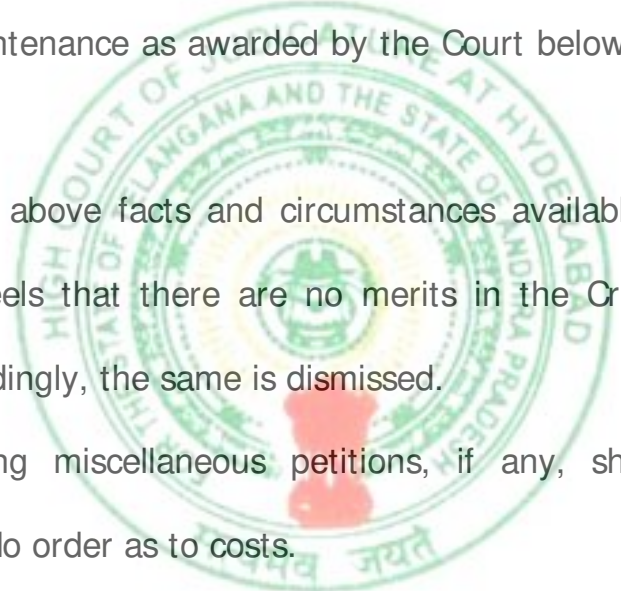
respondent No.1 is not having any source of income to maintain herself, she is entitled for maintenance.

11. As far as the quantum of maintenance awarded by the Court below is concerned, though respondent No.1 has not produced any evidence relating to the financial capacity of the petitioner, but even according to the petitioner, he is earning a sum of Rs.25,000/- p.m. But at the same time, the petitioner has also not produced any evidence to that effect.

12. Keeping the above facts in view, this Court is of the opinion that the maintenance as awarded by the Court below, is proper and valid.

13. In the above facts and circumstances available in this case, this Court feels that there are no merits in the Criminal Revision Case. Accordingly, the same is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

P. KESHAVA RAO,J

Date: 24.07.2018

KPM