

THE HON'BLE Dr JUSTICE SHAMEEM AKTHER

Criminal Revision Case No.2761 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/husband, to set aside the order, dated 21.08.2017, passed in CrI.R.P.No.89 of 2016, by the IV Additional District and Sessions Judge, Tanuku, whereby, the monthly maintenance of Rs.5,000/- was ordered to be paid to the 1st respondent/wife by the learned II Additional Judicial Magistrate of First Class, Tanuku, in M.C.No.12 of 2014 by order, dated 28.04.2016, was enhanced to Rs.10,000/- per month.

2. Heard the learned counsel for the petitioner/husband, learned counsel for the 1st respondent/wife, learned Assistant Public Prosecutor representing the 2nd respondent-State and perused the record.

3. The learned counsel for the petitioner/husband would submit that the learned Magistrate, while dealing with the maintenance application, took the monthly salary of the petitioner into consideration after deducting the car loan and furniture loan obtained by the petitioner/husband and awarded a monthly maintenance of Rs.5,000/-. But the learned Sessions Judge, while dealing with the impugned Criminal Revision Petition, took the gross salary of the petitioner/husband into consideration and enhanced the monthly maintenance from Rs.5,000/- to Rs.10,000/-. The parties to the litigation lived

jointly for a small time. The petitioner is a business man and he is using the car for his business purpose. The Court of Session ought not to have enhanced the monthly maintenance and ultimately prayed to allow the Criminal Revision Case.

4. The learned counsel for the 1st respondent/wife would submit that there is no miscarriage of justice. The Court of Session rightly took the gross salary of the petitioner/husband into consideration and rightly enhanced the monthly maintenance and ultimately prayed to allow the Criminal Revision Case.

5. There is no dispute with regard to the marriage between the parties to the litigation. As per the evidence on record, the petitioner/husband has been using the car for his business purpose. The petitioner/husband is working as Executive Engineer in NTPC, Bhilai, Chattisgarh State. As per the submissions, the gross salary of the petitioner/husband is Rs.31,000/- per month. The Court of Session, while dealing with the impugned Criminal Revision Petition, had extensively dealt with the contentions raised before it and answered the same keeping in view the financial capacity of the petitioner/husband. Gross salary is required to be taken into consideration. The enhancement of maintenance is quite reasonable. There is no miscarriage of justice. There are no grounds to interfere with the impugned order passed by the Court of Session. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

6. In the result, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

Dr. SHAMEEM AKTHER, J

10th April, 2018
Bvv

