

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.3028 OF 2017

ORDER:

This revision is filed under Sections 397 and 401 Cr.P.C. challenging the order, dated 19.04.2017 in M.C.No.26 of 2016 on the file of the I Addl.Junior Civil Judge-cum-Judl. Magistrate of I Class, Bhimavaram, wherein maintenance of Rs.3,000/- per month was granted to the 1st respondent herein.

2. Heard learned counsel for the petitioner, learned counsel for the 1st respondent and perused the record.

3. Learned counsel for the petitioner would submit that the Court below erred in granting maintenance of Rs.3,000/- per month to the 1st respondent and the impugned M.C.No.26 of 2016 was filed when a demand was made by the petitioner to share the ancestral properties. The petitioner and his wife are being maintained on the maintenance being paid by their son. There is a compromise to that effect. The petitioner is aged about 63 years and suffering from chronic kidney problem. The petitioner is bedridden and he needs money for treatment. The 1st respondent is getting rent of Rs.25,000/- per month and ultimately, prayed to set aside the impugned order.

4. On the other hand, learned counsel for the 1st respondent would submit that 1st respondent has no property. He is not getting any rent. He is incapable of maintaining himself. He is 87 years old and ultimately prayed to dismiss the revision.

5. In view of submissions made by both sides, the point for determination is whether the order, dated 19.04.2017 in M.C.No.26 of 2016 is liable to be set aside?

6. There is no dispute with regard to the relationship between the petitioner and the 1st respondent, who are son and father respectively. Though the petitioner has contended that the 1st respondent is getting rent of Rs.25,000/- per month, no document is filed to substantiate the same. Further, there is no evidence to show that the 1st respondent is possessing any immovable property and deriving rent there from. The 1st respondent is aged about 87 years. As per his own evidence, he has no sufficient means to maintain himself. The petitioner has sufficient means to maintain the 1st respondent. There is no dispute with regard to the petitioner and his wife getting an amount of Rs.3,000/- per month in a compromise entered in between them and their son, towards medical expenses.

7. The petitioner has contended that he is suffering from kidney problem. But, there is no document to substantiate the same. Merely because the petitioner is getting some maintenance amount from his son, on that ground, the 1st respondent cannot be denied his right of maintenance, when he is old and incapable of maintaining himself. The Court below while dealing with the subject matter of revision, had elaborately dealt with the contentions and ultimately, directed the petitioner to pay maintenance of Rs.3,000/- per month from the date of petition. The findings are based on material evidence on record. There is no mis-carriage of justice. The revision is devoid of merit and is liable to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending in this revision shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 12-04-2018

Hsd

