

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO.3209 OF 2017

ORDER:

Heard the learned counsel for the petitioner as well as the counsel for respondent Nos.1 to 3.

2. The present Criminal Revision Case is filed questioning the orders passed in M.C.No.94 of 2014 dated 10.1.2017 on the file of the Court of XIV Additional District and Sessions Judge-cum-Additional Family Judge, Vijayawada, granting a sum of Rs.5,000/- per month to respondent No.1 herein and Rs.2,500/- per month each to respondent Nos. 2 and 3 towards maintenance from the date of application.

3. The facts of the case are that respondent Nos. 1 to 3 herein filed M.C.No.94 of 2014 against the petitioner herein on the file of the Court of XIV Additional District and Sessions Judge-cum-Additional Family Judge, Vijayawada, claiming a sum of Rs.10,000/- p.m. to respondent No.1 and Rs.5,000/- p.m. each to respondent Nos.2 and 3 towards maintenance. It is their case that the respondent No.1 is the legally wedded wife of the petitioner. Out of the wed-lock, they were blessed with two female children i.e., the respondent nos. 2 and 3 herein. After two years of the marriage, the petitioner got addicted to vices and used to beat respondent No.1 indiscriminately without any fault on her part and used to suspect her character and demanded additional dowry from the parents' of respondent No.1. The petitioner harassed respondent

No.1 physically and mentally. On 5.5.2013, the petitioner, in a drunken state of mind, beat respondent No.1 demanding for additional dowry and tried to kill her. However, respondent No.1 along with her children escaped and went to her parents' house. When the parents' of respondent No.1 and other elders went to the house of the petitioner, he refused to allow her into his house stating that unless respondent No.1 brings additional dowry of Rs.1,00,000/-, he would not allow them into his house. But at the same time, the petitioner herein filed O.P.No.641 of 2013 for restoration of conjugal rights with all false averments. In those circumstances, respondent Nos.1 to 3 filed the above said maintenance case.

4. The petitioner filed his counter in the said M.C., apart from other aspects admitting the relationship between him and respondent Nos. 1 to 3 but denied the material allegations made against him in the M.C. He also stated respondent No.1 herself has deserted him without any reasonable cause. Therefore, he filed O.P.No.641 of 2013 against respondent No.1 for restoration of conjugal rights.

5. In order to substantiate their contentions, respondent No.1 examined herself as PW1 and got marked Exs.P1 to P3. The petitioner examined himself as RW1 and no documents were marked on his behalf. After appreciation of the evidence, the court below, by orders dated 10.1.2017, allowed the M.C. in part directing the petitioner herein to pay maintenance of Rs.5,000/- p.m. to

respondent No.1 and Rs.2,500/- p.m. each to respondent Nos. 2 and 3 from the date of the application. Aggrieved by the said orders, the present Criminal Revision Case is filed.

6. Learned counsel for the petitioner contended that the order passed by the Court below is contrary to law, weight of evidence and probability of the case. The Court below failed to appreciate that the petitioner never neglected to maintain the respondents and infact, respondent No.1 left the matrimonial company of the petitioner on her own accord and did not evince any interest to convert into Christian religion. The Court also failed to consider that the petitioner filed O.P.No.641 of 2013 against respondent No.1 for restoration of conjugal rights and also for custody of the minor children. As far as quantum of maintenance is concerned, respondent No.1 failed to produce any evidence, but the Court below granted maintenance @ Rs.5,000/- p.m. to respondent No.1 herein and Rs.2,500/- p.m. each to respondent Nos.2 and 3, without any material on record. Therefore, he sought to set aside the orders passed by the Court below.

7. Learned counsel for respondent Nos.1 to 3 supported the impugned orders and submitted that the order passed by the Court below is a reasoned order and does not warrant interference from this Court.

8. Having heard both the counsel and from the perusal of the material on record, it is revealed that respondent No.1 is the legally wedded wife of the petitioner herein. Out of wed-lock, they were

blessed with respondent Nos.2 and 3. Two years after their marriage, the petitioner started neglecting the respondent Nos.1 to 3 and he harassed respondent No.1 physically and mentally and demanded additional dowry. When the petitioner tried to kill respondent No.1, she went to her parents' house. On the other hand, it is the case of the petitioner herein that he never neglected respondent Nos.1 to 3 and respondent No.1 herself left his conjugal society without any reasonable cause. It is also borne out of the record that the petitioner herein filed O.P.No.641 of 2013 for restitution of conjugal rights and claiming custody of respondent Nos. 2 and 3. As far as quantum of maintenance is concerned, respondent Nos. 1 to 3 have stated that they have no independent source of income to maintain themselves. On the other hand, the petitioner is working as a lorry driver and getting an income of Rs.20,000/- p.m. apart from having landed property. Except suggestions and denial, nothing has been elicited from the cross-examination of PW1 with regard to her source of income that she is working as a beautician and getting Rs.30,000/- p.m. On the other hand, respondent No.1 herein has categorically averred that the petitioner herein is working as a lorry driver and getting an income of Rs.20,000/- p.m. Though he has taken a plea that because of the false case filed by respondent No.1 he lost his job, no suggestion was put to PW1 in the cross-examination. That apart, the petitioner is working as a lorry driver and filing of a maintenance case against him does not in any way warrant his removal from the

job. It appears the said contention is raised only for the purpose of this case. Therefore, the evidence of PW1 to the extent that she does not have any source of income and she has to maintain respondent Nos.2 and 3 is unrebutted. Looking at the cost of living and the rate of inflation in the recent times, granting of sum of Rs.5,000/- p.m. to respondent No.1 and Rs.2,500/- p.m. each to respondent Nos. 2 and 3 is not on the higher side.

9. In these circumstances, this Court is not inclined to interfere with the orders passed by the Court below.

Accordingly, Criminal Revision Case is dismissed.

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

Date: 24 .07.2018

KPM

P. KESHAHA RAO,J

