

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.3402 of 2017

ORDER:

Heard the learned counsel for the petitioners as well as the 2nd respondent.

The present revision case is filed questioning the orders passed in M.C.No.230 of 2014 dated 10.10.2017 on the file of the XIV Additional District and Sessions Judge-cum-Additional Family Judge, Vijayawada, declining to grant maintenance to the 1st petitioner while granting maintenance @ Rs.10,000/- each to petitioner Nos.2 and 3.

The facts in brief are that the petitioners filed M.C.No.230 of 2014 against the 2nd respondent herein claiming a sum of Rs.20,000/- per month to the 1st petitioner and Rs.10,000/- per month each to petitioner Nos.2 and 3 towards maintenance. It is their specific case that the marriage of the 1st petitioner with the 2nd respondent was solemnized on 05.02.1998 as per the Hindu rites and customs. Out of wedlock, they were blessed with petitioner Nos.2 and 3. At the time of filing of maintenance case, petitioner Nos.2 and 3 were prosecuting Intermediate and 9th class respectively. Now it is brought to the notice of the Court that they are prosecuting B.Tech course. After marriage, the 1st petitioner and the 2nd respondent have led conjugal life at Veerapanenigudem for about three months and thereafter shifted to Ajjampudi Village where the 2nd respondent was running a poultry farm. The 2nd respondent and his parents quarreled with the 1st petitioner on the pretext that her parents have not given any proper gifts to her child after delivery. The petitioners were left at Ajjampudi Village

in the poultry farm and the 2nd respondent used to visit now and then. Meanwhile, the 2nd respondent addicted to vices and used to pick up quarrel with the 1st petitioner and beat her. The sister of the 2nd respondent, who deserted her husband, was also living with her parents and she also instigated the 2nd respondent to harass the 1st petitioner. When the 2nd respondent and his family members ill-treated the 1st petitioner, she was forced to file a complaint in Unguturu Police Station, which is registered as Crime No.134 of 2014 for the offence under Section 498-A IPC. In those circumstances, she was forced to file the maintenance case.

The 2nd respondent filed counter denying the material averments made in the petition while admitting the marriage with petitioner No.1 and the paternity of petitioner Nos.2 and 3 and contended *inter alia* that he has taken utmost care in the upbringing of petitioner Nos.2 and 3. There was no involvement of his parents in his marital life with the 1st petitioner. He was paying the insurance premium regularly in the name of petitioner Nos.2 and 3. He used to spend all his monthly salary for the welfare of the family. He has provided education to his children and they lived together at Hyderabad till 10.06.2014. In fact, there were no disputes or differences between them. On 10.06.2014, they went to Veerapanenigudem for attending dhoti presentation function of his sister's son as per their custom. After attending the function, when the 1st petitioner went to her parents house along with her children on 12.06.2014, she filed a false complaint against the 2nd respondent, his father and sister and the same was registered as Crime No.134 of 2014 for the offence under Section 498-A IPC. In connection with the said crime, he was arrested and

sent to jail. Meanwhile, the 1st petitioner came to Hyderabad, broke open the locks of the house at Nizampet and took away all the household articles belonging to the 2nd respondent and thereafter she filed the present maintenance case.

The petitioners to substantiate their case, examined petitioner No.1 as PW.1 and the 2nd respondent examined himself as RW.1 apart from another witness by name B. Ramesh Reddy as RW.2. The petitioners marked Exs.P1 to P14 and the 2nd respondent marked Exs.R1 to R27.

The learned Family Judge, after hearing the matter, was pleased to allow the maintenance case in part, directing the 2nd respondent to pay monthly maintenance allowance @ Rs.10,000/- per month each to petitioner Nos.2 and 3 from the date of application till the date of attaining majority, but, as far as the 1st petitioner is concerned, it was declined on the ground that she failed to establish her entitlement to ask maintenance from the 2nd respondent by orders dated 10.10.2017. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioners would contend that the Court below miserably failed to appreciate that the 1st petitioner does not have any independent source of income. Even the land to an extent of Ac.3.00 gifted by her parents is not fetching any income. In fact, she is dependent on her parents. Though the learned Family Judge awarded maintenance to petitioner Nos.2 and 3, it has not properly considered the point whether the petitioners are unable to maintain themselves and whether the 2nd respondent neglected them having sufficient

income to maintain them. Therefore, he sought maintenance to the 1st petitioner.

Per contra, the learned counsel appearing for the 2nd respondent justified the orders passed by the Court below on the ground that the 1st petitioner intentionally suppressed the income generated from the agricultural land given to her by her father through gift as well as the income which she was getting from embroidery work. In fact, the said two vital aspects have been suppressed by the 1st petitioner and filed the maintenance case stating that she does not have any independent source of income to maintain herself.

Having heard both the counsel and from a perusal of the material on record, the point that arises for consideration is:

Whether the 1st petitioner is entitled for maintenance?

The 1st petitioner in order to substantiate her claim that she is entitled for maintenance from the 2nd respondent examined herself as PW.1. In the chief-examination, she repeated the averments made in the maintenance case and specifically stated that she is not having any independent source of income. However, in the cross-examination, she has categorically admitted that her parents used to entrust sale consideration of the land approximately Rs.29,500/- to the 2nd respondent. That apart, as far as the embroidery work is concerned, when the 2nd respondent has categorically stated in his counter that the 1st petitioner is earning Rs.40,000/- per month from embroidery and tailoring, she has not stated anything by way of rebuttal. On the other hand, in her evidence, she pleaded ignorance about the embroidery work.

From a perusal of the pleading in the maintenance case as well as from the impugned orders, it is clear that the 1st petitioner is silent on these two aspects in the petition filed by her. However, the same are brought on record in her chief as well as cross examination. Thus, there is deliberate suppression on the part of the 1st petitioner with regard to her source of income on the landed property as well as the embroidery and tailoring work. In fact, the learned Family Judge also appreciated these two aspects and held that the 1st petitioner intentionally suppressed these two aspects for the purpose of claiming maintenance from the 2nd respondent and further held that she failed to establish her entitlement to ask maintenance from the 2nd respondent. Therefore, this Court finds that there is no irregularity or illegality in the finding arrived at by the Court below to decline maintenance to the 1st petitioner. As far as the maintenance granted to petitioner Nos.2 and 3 is concerned, the counsel appearing for the petitioners have not advanced any arguments for enhancement or otherwise. Similarly, the counsel appearing for the 2nd respondent also has not challenged the impugned orders granting maintenance to petitioner Nos.2 and 3. In these circumstances, this Court is of the opinion that there are no merits in the present revision case.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 24.07.2018.
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