

**HONOURABLE JUSTICE G. SRI DEVI**

**CRIMINAL REVISION CASE No.38 of 2018**

**ORDER:**

The present revision is filed under Sections 397 read with 401 Cr.P.C. aggrieved by the order, dated 16.12.2017 passed in M.P.No.1004 of 2017 in M.C.No.317 of 2015 on the file of the Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-IX Metropolitan Sessions Judge, Hyderabad, wherein and whereunder the trial Court allowed the petition filed by the revision petitioner to set aside the *ex parte* decretal order passed on 24.05.2016, subject to payment of Rs.75,000/- on or before 17.01.2018 and on further condition that the revision petitioner shall pay Rs.4,000/- and Rs.3,000/- to his wife and son respectively towards interim maintenance till the disposal of the main case.

The facts in issue are that respondent No.1 is the wife and respondent No.2 is the son of the revision petitioner and they filed M.C.No.317 of 2015 seeking maintenance of Rs.10,000/- per month to each of them and Rs.5,000/- per month towards treatment and medical expenses of respondent No.2 (son). As the revision petitioner/husband failed to attend the Court, the trial Court set him *ex parte* and passed an *ex parte* order on 24.05.2016 in the said Maintenance Case by granting Rs.7,500/- and Rs.6,000/- per month to the wife and son respectively. After receiving the salary attachment order, the revision petitioner filed the present M.P.No.1004 of 2017 in

M.C.No.317 of 2015 to set aside *ex parte* decretal passed against him on 24.05.2016, stating that he had not received summons or notices and that without verifying service of summons on him, the trial Court set him *ex parte*. No counter has been filed by respondent Nos.1 and 2 herein before the trial Court. After hearing both the Counsel, the trial Court allowed the said petition subject to payment of Rs.75,000/- on or before 17.01.2018 and on further condition that the revision petitioner shall pay Rs.4,000/- and Rs.3,000/- to respondent Nos.1 and 2 herein respectively towards interim maintenance till the disposal of the main case. Challenging the said condition, the present Criminal Revision Case is filed by the revision petitioner/husband.

Though counter was filed on behalf of respondent Nos.1 and 2, there was no representation on behalf of respondent Nos.1 and 2 herein. Hence, heard learned Counsel appearing for the revision petitioner, learned Additional Public Prosecutor appearing for the 3<sup>rd</sup> respondent-State and perused the record.

Learned Counsel appearing for the revision petitioner would submit that the trial Court went wrong in imposing the condition to deposit a sum of Rs.75,000/- on or before 17.01.2008 and also to pay Rs.4,000/- and Rs.3,000/- per month towards interim maintenance to respondent Nos.1 and 2 herein, without affording an opportunity of being heard and without ascertaining the income of the revision petitioner. Further, the trial Court ought to have seen that the revision petitioner herein came to know about the *ex parte* order only when

respondent No.1 approached the place of work of the revision petitioner and informed about the alleged salary attachment. It is also stated that the revision petitioner is working in a private firm and drawing a sum of Rs.13,500/- and from out of the said income, he has to maintain himself, his old aged mother and sister and also to pay the house rent etc. It is further submitted that the trial Court ought to have seen that respondent No.1 had suppressed the Memorandum of Understanding entered into on 03.10.2013, wherein they have decided to live separately and the revision petitioner had returned all the presentations given to her at the time of marriage and that respondent No.1 categorically admitted that there remains nothing due in between them. It is also submitted that when once the relationship in between the revision petitioner and respondent No.1 ceased by virtue of the Memorandum of Understanding, she is not entitled to claim any maintenance.

It is stated by respondent Nos.1 and 2 in the counter that the revision petitioner/husband without complying with the orders of the trial Court, except paying a sum of Rs.30,000/- in two instalments, approached this Court by filing the present revision. If at all the revision petitioner has any merits in the case, he has to contest the case by complying with the orders of the trial Court. It is further stated that respondent No.2/Son is a physically challenged person and he requires Rs.5,000/- per month for his treatment.

A perusal of the material on record would show that the revision petitioner/husband is due to an amount of Rs.3,51,000/- towards arrears of maintenance. Since there is no dispute with regard to the relationship between the revision petitioner and respondent Nos.1 and 2 and huge amount of arrears has to be paid by the revision petitioner/husband and that the main Maintenance Case is still pending, I am of the view that the interim maintenance at Rs.4,000/- and Rs.3,000/- per month awarded to respondent Nos.1 and 2 respectively and further the condition of payment of Rs.75,000/- towards arrears of maintenance needs no interference. Having regard to the facts and circumstances of the case, I see no illegality, irregularity or infirmity in the order passed by the trial Court.

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

20.12.2019  
gkv/Gsn.

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JUSTICE G. SRI DEVI