THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.129 of 2019

ORDER:

Heard the learned counsel for petitioner.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.22-11-2018 in I.A.No.830 of 2017 in F.C.O.P.No.667 of 2017 of the Family Court, Secunderabad.

3. The petitioner in this Revision is also the petitioner in the O.P. which she has filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights contending that the 1st respondent is her husband and they had got married on 20-11-2013 and without any valid reason, she was necked out of the house by 1st respondent.

4. Counter affidavit was filed by the 1st respondent opposing this petition and he also leveled several allegations against the petitioner.

5. Pending the O.P., the petitioner filed I.A.No.830 of 2017 under Section 24 of the Act seeking interim maintenance pending disposal of the O.P.

6. In the affidavit filed in support of this application, she stated that she was unemployed, that she was under medical treatment for depression and was solely dependent on her parents for food, shelter and clothing; that the 1st respondent was working with the 2nd respondent and has an annual income of Rs.43.00 lakhs in 2013, that his earnings presently were Rs.50.00 lakhs per year, and he was also earning through

money lending business; and so she ought to be granted interim maintenance of Rs.3,25,000/- per month.

7. Counter affidavit was filed by the respondent opposing this application. He contended that the petitioner is a chronic litigant who had filed several cases against her ex-husband also ; that the petitioner was running a boutique under the name and style of M/s.Ruchi's Clothing; and her mother, father and brother are having different businesses. He contended that the income of the petitioner was more than his own income and exaggerated figures of income of the respondent have been given by the petitioner.

8. He denied that he was earning more than Rs.50.00 lakhs per year from his salary and also from the money lending business. He stated that as per his Salary Certificate, his basic pay is Rs.40,100/- and that he enclosed the salary certificate for the months of January, February and March,2018. He contended that the petitioner was earning monthly income of at least Rs.5.00 to Rs.7.00 lakhs and she is not entitled to interim maintenance.

9. By order dt.22-11-2018, the trial Court dismissed the application for interim maintenance. It stated in the order that on 12-09-2018, the trial court had directed both parties to file particulars regarding their educational, professional qualifications, present and past occupation, income from employment and income from business/profession if self employed, income from other sources, assets

and liabilities and expenditure by way of affidavits; since the respondent was alleging that she was well qualified in fashion technology and was a post graduate in Commerce, petitioner was asked to file documents relating to her educational qualification, but petitioner had not filed any document and so adverse inference can be drawn against her.

10. It also referred to Ex.R-14, copy of petition filed by the petitioner against her ex-husband in M.C.No.240 of 2010 and observed that in Ex.R-14, petitioner admitted that M/s.Ruchi's Cloths shop was standing in her name, that she was appointed as a Stores Manager on a fixed salary of Rs.3.00 lakhs per month in M/s.Ritu Kumar Private Limited, Chennai and she was also an income tax assessee for the year 2009-10. The court also mentioned that petitioner did not file any documents relating to her income from the shop which was admittedly in her name and was being run by her or title documents relating to the said shop and her pleadings in Ex.R-14 operate as estoppel against her.

11. It also took note of Exs.R-2 to R-7 , air tickets of travel by the petitioner filed by the respondent and held that they showed that the petitioner had capacity to fly frequently and rejected the plea of the petitioner that they did not relate to her business, in view of admissions of the petitioner in Ex.R-14.

12. It therefore held that since petitioner was running a business in a shop owned by her, it cannot be said that she has no independent income to support her; intentional suppression of documents relating to

education, business and salary goes against the petitioner and adverse inference has to be drawn against her; and it is not a fit case to grant maintenance *pendente lite* pending adjudication of main petition.

13.Assailing the same, this Civil Revision Petition is filed.

14. Learned counsel for the petitioner contended that order passed by the Court below cannot be sustained and the Court below erred in refusing to grant interim maintenance to the petitioner who had no source of livelihood and was dependent on her parents. He contended that the statements made in Ex.R-14 relate to the period between 2010 and 2017 and on the date when I.A.No.830 of 2018 was filed, petitioner had no source of income. He also contended that documents filed by the petitioner in the Court below establish the fact that petitioner had no source of income, that the respondent was very well settled and the petitioner should be granted interim maintenance payable by the respondent.

15. The counsel for respondent refuted the above contentions and supported the order passed by the trial court.

16.I have noted the above contentions.

17.The fact that the petitioner had filed M.C.No.240 of 2010 against her earlier husband seeking maintenance under Section 125 of the Cr.P.C. is not denied. In the order Ex.P-1 dt.12-04-2017 passed therein, petitioner had admitted that she had studied up to B.Com., and was appointed as Stores Manager on a fixed salary of Rs.3.00 lakhs per month in M/s.Ritu Kumar Private Limited, Chennai and also that a shop by name M/s.Ruchi's Cloths was standing in her name. She also submitted that she was filing income tax returns apart from sales tax returns also.

18. When the Court below gave opportunity to the petitioner, in its order dt.12-09-2018, to give all information about her present and past occupation, income from salary and income from business/profession, apart from details of assets and liabilities by way of affidavit, the petitioner has suppressed her income tax returns/sales tax returns for the period after filing of the O.P.

19.Having admitted in M.C.No.240 of 2010 that there was a shop in her name, she ought to have disclosed the title deeds of the said shop and income from the business of the said shop in the Court below by way of affidavit and filed the title deeds as well as income tax / VAT returns. Suppression of the said documents creates an impression that petitioner has source of income but she does not want to disclose it. Also, petitioner did not deny the air tickets Exs.R-2 to R-7 relating to her travel, which were filed by the respondent, which indicate that the petitioner was frequently travelling by air.

20. When such is the position, petitioner suddenly cannot take the plea that she has no means. Also license of her shop of clothing has been got renewed from the Labour Department from 01-01-2018 to 31-12-2018 and from 01-01-2019 to 31-12-2019 and a provisional trade licence from the GHMC was also obtained by the petitioner on

29-03-2018 for running of the shop M/s.Ruchi’s Clothing, as per other documents filed in the Revision. If the petitioner had really no means of income, she could not have obtained these licences for doing business in her shop.

21. I therefore do not find any merit in the Revision Petition. It is accordingly dismissed. No costs.

22. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-02-2018
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