

HON'BLE JUSTICE G. SRI DEVI
CRIMINAL REVISION CASE No.210 OF 2019

ORDER :

This Criminal Revision Case is filed by the petitioner (husband) under Sections 397 and 401 Cr.P.C., challenging the order, dated 26.11.2018 in M.C.No.303 of 2015 on the file of the Addl. Metropolitan Sessions Judge for the Trial of Jubilee Hill Car Bomb Blast Case-cum-Addl. Family Court-cum-XXIII Addl. Chief Judge-cum-IX AMSJ, Hyderabad.

2. Respondents 1 and 2 herein, who are wife and son of the petitioner herein filed the above M.C. under Section 125 Cr.P.C. claiming maintenance at the rate of Rs.20,000/- per month to the 1st respondent and Rs.10,000/- per month to the 2nd respondent.

3. The brief facts of the case are that the 1st respondent is the legally wedded wife of the petitioner herein and their marriage was celebrated on 07.02.2014 at Hyderabad as per Muslim Rites and Caste Customs and at the time of marriage, her parents gave dowry of Rs.2 lakhs, 6 tulas of gold and other household articles worth Rs.3 lakhs. Thereafter, the petitioner and his family members started harassing her to bring additional dowry of Rs.3 lakhs. The 1st respondent gave birth to 2nd respondent on 09.02.2015. After giving birth to child, when the parents of the 1st respondent and others went to the petitioner's house to drop her, they did not allow her into the house and the petitioner slapped her and abused her. 1st respondent

lodged a report with police, basing on which, a case in Cr.No.513 of 2015 was registered under Domestic Violence Act. The 1st respondent is depending upon her parents along with her child and the respondent has been doing business and earning Rs.1 lakh and he has also other properties. Hence, the claim.

4. The petitioner herein (husband) filed counter while admitting his marriage with the 1st respondent and birth of child out of their wedlock, denied the other allegations. It is further stated in the counter that the 1st respondent (wife) is adamant and quarrelsome in nature and she was also chatting on mobile and she is in the habit of informing day-to-day affairs to her parents. It is further stated that on the third day of marriage, the mother of the 1st respondent informed the petitioner that she was unhappy with him since he was not looking good. The 1st respondent is not interested to continue the marital life since the petitioner is not so educated and not looking good. The 1st respondent refused to join him when he approached several times to come and join him. When the petitioner came to know about the birth of child and went to hospital, mother of the 1st respondent did not allow him and his family members to see the child and warned him not to visit again. It is further stated that on 22.04.2015, the 1st respondent along with her parents and relatives visited his house and created nuisance and manhandled him and threatened with dire consequences. The petitioner had pronounced Talaq-E-Bayeen on

28.04.2015 and sent the declaration to her enclosing the demand draft amount of Rs.9000/- being the Iddat amount, but the notice was returned unclaimed. Thereafter he approached Government Chief Qazi, who issued Divorce Certificate, dated 12.05.2015. In the mean time, the 1st respondent has lodged a report with false contents. It is further stated that the 1st respondent is a graduate and she can maintain herself. The petitioner is not doing any business but working as Helper in a Sofa Repair Shop and earning Rs.300/- per day. Hence, it is prayed that the petition may be dismissed.

5. On behalf of the respondents 1 and 2 herein, P.Ws.1 and 2 were examined and Exs.P1 to P5 were marked. On behalf of the petitioner herein, R.W.1 was examined and Exs.R1 to R4 were marked.

6. The trial Court after considering the entire oral and documentary evidence on record, granted maintenance at the rate of Rs.10,000/- per month to the 1st respondent herein and Rs.5,000/- per month to the 2nd respondent herein. Hence, this revision.

7. Learned counsel for the petitioner herein submits that the petitioner divorced the 1st respondent and he also contacted second marriage and he has to look after his parents and second wife. He cannot maintain all of them with his earnings as he is a Sofa Maker and living on daily wages. He further submits that the amount of maintenance

granted by the trial Court is excessive and hence, he prays to set aside the impugned order.

8. Learned counsel for the respondents 1 and 2 submits that the trial Court after considering the entire oral and documentary evidence available on record, rightly granted maintenance and absolutely, there are no grounds to interfere with the same.

9. There is no dispute with regard to the fact that the petitioner is the husband of 1st respondent and out of their wedlock, the 2nd respondent was born to them. P.W.1 (wife) deposed that while she was carrying third month pregnancy, her husband and his family members starting harassing her and demanded her to get additional dowry of Rs.3 lakhs. After giving birth to child, when the 1st respondent along with her parents and relatives went to the house of the petitioner to drop her, they did not allow her. P.W.1 further deposed that the petitioner herein is doing business and he has other immovable property and his monthly income is Rs.1 lakh and she is a house wife and has no source of income to maintain herself and her child.

10. On the other hand, R.W.1 (husband) deposed that his wife is taking tuitions and earning Rs.15,000/- to Rs.20,000/- per month. He further deposed he has to look after his parents, who are suffering from ailments. Though, R.W.1 is deposed that he is working on daily wages under a Sofa Maker, but he did not produce any document in support

of the same. It is the duty of the husband to maintain his wife and children. But the petitioner neglected to maintain them.

11. Thus, taking into consideration the evidence of the witnesses and also in view of the facts and circumstances of the case, the petitioner is directed to pay monthly maintenance of Rs.10,000/- to the respondents 1 and 2 on or before 10th of every succeeding month commencing from November, 2019. The total arrears of maintenance payable by the petitioner is Rs.3,60,000/-. After calculating the arrears of maintenance, which has already paid by the petitioner at the rate of Rs.10,000/- per month, it comes to Rs.1,80,000/-. Therefore, the petitioner is directed to pay arrears of maintenance amounting to Rs.1,80,000/- to the respondents 1 and 2 within a period of 8 weeks from today.

12. With the above direction, the Criminal Revision Case is disposed of. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

DATED: 13.11.2019.

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