

HON'BLE JUSTICE G.SRI DEVI

CRIMINAL REVISION CASE No.934 of 2019

ORDER:

This Criminal Revision Case is directed against the order dated 22.04.2019, passed in M.P.No.217 of 2017 in M.C.No.64 of 2013 on the file of the Judge, Family Court at Secunderabad.

The 1st revision petitioner is the wife and the 2nd revision petitioner is the son of the 2nd respondent herein. The revision petitioners filed M.C.No.64 of 2013 seeking to grant maintenance of Rs.15,000/- Per Month to each of them and Rs.5,000/- towards legal expenses. By an order, dated 03.02.2016, the trial Court, after considering the rival submissions of the parties, allowed the above M.C. in part awarding maintenance of Rs.5,000/- per month to the 2nd revision petitioner/Son and Rs.5,000/- towards legal expenses to the 1st revision petitioner and further directing the 2nd respondent/husband to pay the school fee of the 2nd revision petitioner. However, the trial Court, dismissed the claim of maintenance of the 1st revision petitioner as she was working as a Team Leader in Tech Mahendra Company and earning Rs.19,000/- Per Month. Aggrieved by the said order, the revision petitioners filed CrI.R.C.No.932 of 2016 before this Court. By an order, dated 05.07.2016, this Court enhanced the maintenance amount awarded to the 2nd revision petitioner/Son from Rs.5,000/- to Rs.6,000/ per month from the date of order of the trial Court. Thereafter, in the

year 2017, the revision petitioners filed M.P.No.217 of 2017 under Section 127 of Cr.P.C., seeking enhancement of maintenance. The averments in the petition are that the 2nd revision petitioner is studying X Class and his school fee has been increased to Rs.7,000/- and that expenditure for his food, clothing and other miscellaneous things comes to Rs.5,000/- and that in total he requires Rs.12,000/- per month. It is also stated that the trial Court did not consider the ground of unsound mind of the 1st revision petitioner and granted divorce in F.C.O.P.No.327 of 2013 on the ground of cruelty. The trial Court also did not consider that the 1st revision petitioner worked as a private employee for a short period and that she was earning a meager amount and was totally dependent on the income of her widowed mother. As such, the application is filed to enhance the maintenance to the 2nd revision petitioner and for grant of maintenance to the 1st revision petitioner.

A counter-affidavit came to be filed by the 2nd respondent stating that the trial Court, after considering the entire evidence on record, awarded maintenance of Rs.5,000/- to the 2nd revision petitioner, which was enhanced by this Court in Crl.R.C.No.932 of 2016 from Rs.5,000/- to Rs.6,000/-. In pursuance of the orders of the High Court, he has been depositing maintenance amount in the bank every month and that the present application for enhancement is not maintainable as there are no valid reasons for enhancement. It is also stated that the 1st revision petitioner is still working in Tech

Mahindra company and that there are no warranting circumstances to award maintenance to her.

After analyzing the entire evidence on record, the trial Court dismissed the aforesaid M.P. Challenging the same, the present Criminal Revision Case came to be filed.

Learned Counsel for the revision petitioners submits that the trial Court erred in coming to the conclusion that the revision petitioners nowhere in their petition stated about the changed circumstances to enhance the maintenance. According to the revision petitioners, the trial Court passed an erroneous order in M.C.No.63 of 2013 and hence it needs to be modified by way of enhancement. In the petition, it is clearly mentioned that the 2nd revision petitioner was studying 10th class when the maintenance of Rs.6,000/- per month was granted by this Court and since he joined in Velocity Junior College, Secunderabad, presently he has to pay Rs.1.5 lakh per annum. It is further submitted that the expenditure of the 2nd revision petitioner was increased and, therefore, he may be granted Rs.15,000/- per month towards maintenance.

Learned Counsel appearing for the 2nd respondent/husband would submit that initially an amount of Rs.5,000/- was granted to the 2nd revision petitioner in M.C.No.64 of 2013, which was enhanced to Rs.6,000/- by this Court in CrI.R.C.No.932 of 2016. Pursuant to the orders of this Court, the 2nd respondent has been depositing the maintenance amount in the bank every month. He

further submitted that as the 1st revision petitioner is working in Tech Mahindra Company and having sufficient earnings, the trial Court as well as this Court rejected her claim for maintenance. As such, there are no circumstances to modify the said order.

A perusal of the material on record would disclose that the 1st revision petitioner/wife admitted in her evidence that she has been working in Tech Mahindra Company and earning Rs.19,000/- per month. Since the 1st revision petitioner/wife is having sufficient means to maintain herself, the trial Court as well as this Court rejected her claim for maintenance. Therefore, there are no warranting circumstances to award maintenance to the 1st revision petitioner/wife.

Insofar as the 2nd revision petitioner is concerned, as seen from the record, it transpires that the 2nd revision petitioner/Son was studying 10th class when the maintenance of Rs.6,000/- per month was granted by this Court in Criminal Revision Case No.932 of 2016 dated 05.07.2016. The evidence of the 1st revision petitioner would reveal that her son (2nd revision petitioner) is studying Intermediate in Velocity College, West Marredpally, and an amount of Rs.1.5 lakh per annum has to be paid towards his tuition fee etc. It is also stated that the expenditure of the 2nd revision petitioner towards his food, clothing etc., has been increased and, therefore, he may be granted Rs.15,000/- per month towards his maintenance. The trial Court without considering the said aspect rejected the petition on the sole

ground that the 1st revision petitioner could not speak anything about the present employment of the 2nd respondent and she did not file a single document in support of the same.

Having considered the submissions made by the learned Counsel for the parties and having perused the entire material available on record as well as the impugned order of the trial Court, this Court is of the view that there is no dispute with regard to the relationship of the revision petitioners and the 2nd respondent herein. The 2nd respondent being the father of the 2nd revision petitioner herein is liable to bear the college fee and other expenses of his son. The Counter-affidavit of the 2nd respondent/husband would reveal that in pursuance of the orders of this Court in Crl.R.C.No.932 of 2016 dated 05.07.2016, he has been depositing the maintenance amount in the bank every month in favour of the 2nd revision petitioner and that the present application for enhancement is not maintainable. Except this fact, there is nothing on record to show that the 2nd respondent is not in a position to meet the educational expenses of the 2nd revision petitioner. Therefore, this Court is inclined to enhance the maintenance granted to the 2nd revision petitioner.

Hence, the maintenance awarded to the 2nd revision petitioner/son is enhanced from Rs.6,000/- to Rs.10,000/- per month and the 2nd respondent herein is directed to pay the said amount

from the date of filing of the petition and shall continue to pay the same on or before 5th of every succeeding month.

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

28.11.2019
Gsn/Gkv

JUSTICE G.SRI DEVI

