

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.993 of 2019

ORDER:

The present revision is filed under Sections 397 read with 401 Cr.P.C. aggrieved by the order, dated 22.07.2019, passed in M.C.No.438 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-XXIII Additional Chief Judge-cum-IX Additional Metropolitan Sessions Judge, Hyderabad, wherein and whereunder the trial Court allowed the said Maintenance Case filed by respondents 2 and 3 herein and directed the revision petitioner to pay an amount of Rs.5,000/- per month to each of the respondents 2 and 3 herein.

The facts, in issue, are that the 2nd respondent is the wife and the 3rd respondent is the daughter of the revision petitioner/husband and they filed M.C.No.438 of 2015 seeking monthly maintenance of Rs.10,000/- to the 2nd respondent /wife and Rs.15,000/- to the 3rd respondent/daughter. The averments in the petition would disclose that the marriage between the 2nd respondent and the revision petitioner was solemnized on 08.04.2012 as per Hindu Rites and Customs. At the time of marriage, the father of the 2nd respondent gave Rs.2.00 lakhs cash, 10 tulas of gold jewellery and other household articles to the parents of the revision petitioner. Soon after the marriage, the 2nd respondent joined the

company of the revision petitioner and both of them lived together for a period of six months in joint family and thereafter the revision petitioner started manhandling the 2nd respondent and used to abuse her in filthy language, on the instigation of his parents. The revision petitioner and his elder brother used to demand additional dowry of Rs.1.00 lakh from the 2nd respondent. The parents of the revision petitioner took the custody of gold and silver ornaments of the 2nd respondent and did not allow her to use them. When the 2nd respondent gave birth to respondent No.3 on 09.02.2014, none of the family members of the revision petitioner turned up to see them. After delivery, the revision petitioner never made any attempt to take them back to lead matrimonial life. The revision petitioner used to harass the 2nd respondent continuously and neglected to maintain her. It is further stated that the revision petitioner is working as Ophthalmologist in Dundoo Eye Hospital, Marredpally, Secunderabad. Since the 2nd respondent being a house wife is unable to maintain herself and her daughter, they filed the aforesaid Maintenance Case.

In the Counter, the revision petitioner/husband, while admitting his relationship with the 2nd and 3rd respondents as wife and daughter, denied the payment of dowry and receipt of gold articles. It is further stated that the 2nd respondent is not entitled for any maintenance as she is not willing to lead marital life with him and she voluntarily left his company without any intimation

and that his efforts to lead marital life with the 2nd respondent and to take them back turned to be futile. It is further stated that the 2nd respondent is working as a Computer Operator and that she being a Post Graduate in Arts earning Rs.15,000/- per month by way of giving tuitions to the students. It is also stated that the revision petitioner is drawing salary of Rs.7,648/- per month as an Ophthalmologist and he is ready to pay Rs.500/- per month to each of respondent Nos.2 and 3.

During the course of trial, respondent No.2/wife examined herself as P.W.1 and got marked Exs.P1 to P3, where as the revision petitioner/husband examined himself as R.W.1 and got marked Ex.R1. After considering the rival submissions and the material available on record, the trial Court directed the revision petitioner/husband to pay monthly maintenance at the rate of Rs.5,000/- each to the 2nd respondent/wife and the 3rd respondent/daughter from the date of order. Challenging the same the present Criminal Revision Case is filed.

Heard learned Counsel for the revision petitioner, learned Additional Public Prosecutor for the 1st respondent/State and learned Counsel for respondent Nos.2 and 3.

Learned Counsel for the revision petitioner would submit that quantum of maintenance awarded by the trial Court is exorbitant and beyond the capacity of the earnings of the revision petitioner. He further submits that respondent No.2 is a Post Graduate and she

is earning Rs.15,000/- by giving tuitions to the students. He also submits that it is very difficult for the revision petitioner to pay a sum of Rs.10,000/- per month.

Learned Counsel for respondent Nos.2 and 3 would submit that the revision petitioner is working as an Ophthalmologistt in Dundoo Eye Hospital, Marredpally, Secunderabad and having sufficient means to pay the maintenance and, therefore, there is no valid ground to interfere with the impugned order.

As seen from the record, the revision petitioner is working as an Ophthalmologist and there is no dispute with regard to the relationship of the revision petitioner with respondent Nos.2 and 3. In fact, the revision petitioner failed to prove his income by adducing cogent and convincing evidence as such the trial Court, after considering the entire material on record and the financial capacity of the revision petitioner and also the cost of living, came to the conclusion that respondent Nos.2 and 3, who are wife and daughter of the revision petitioner, are entitled for maintenance and accordingly granted maintenance at the rate of Rs.5,000/- per month to each of them, which is fair and reasonable. Therefore, it cannot be said that the quantum of maintenance awarded by the trial Court is on higher side. I do not find any ground to interfere with the impugned order of the trial Court.

Accordingly, the Criminal Revision Case is dismissed at the admission stage. Miscellaneous petitions, if any, pending shall stands closed.

JUSTICE G. SRI DEVI

09.12.2019
Gsn.

