

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.2035 of 2018

ORDER:

1) Assailing the order, dated 30.04.2018 passed in CrI.A.No.1061 of 2016 on the file of the VIII Additional Sessions Judge, Ranga Reddy District at L.B.Nagar, the present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C.

2) The facts in brief are that; the first respondent is the wife, second respondent is the minor son and third respondent is the minor daughter of the petitioner. Respondent Nos.1 to 3 filed D.V.C.No.156 of 2007 before the II Metropolitan Magistrate, Cyberabad at L.B.Nagar. By an order, dated 23.10.2007, the learned Magistrate granted maintenance at Rs.2,000/- per month to each of the respondents. Thereafter in the year 2015 the respondents herein filed CrI.M.P.No.1496 of 2015 under Section 127 Cr.P.C. seeking enhancement of the monthly maintenance amount from Rs.2,000/- to Rs.6,000/- to each of the respondents. By an order dated 16.11.2016, the learned Magistrate dismissed the said petition. Challenging the same, the respondents herein filed CrI.A.No.1061 of 2016 before the VIII Additional Sessions Judge, Ranga Reddy District at L.B.Nagar. By an order dated 30.05.2018, the learned Sessions Judge, allowed the appeal by enhancing the maintenance to Rs.6,000/- per month to each of the respondents from 30.05.2018. Challenging the said order, the petitioner-husband filed the present revision.

3) As seen from the record, there is no dispute with regard to the relationship of the petitioner with the respondents. Learned counsel for the petitioner only submits that the quantum of maintenance enhanced by the appellate Court is on higher side and hence seeking reduction of the same. He submits that the petitioner is getting only Rs.24,000/- per month after deduction of SBI loan and other payments. The same is opposed by the counsel for the respondents. She submits that the petitioner is working as Mandal Education Officer and he is getting gross salary of Rs.75,490/- per month. He further submits that the deductions cannot be taken into consideration while awarding maintenance.

4) In view of the fact that there is no dispute with regard to relationship, the question would be whether the respondents are entitled for any enhancement of the maintenance?

5) At the time when the matter is taken up for hearing, learned counsel for the respondents placed on record the pay slip of the petitioner for the month of September, 2018, which was obtained under Right to Information Act. As per the pay slip, the petitioner is earning more than Rs.75,000/- per month as he is working as Mandal Education Officer. After deductions the net pay which the petitioner gets is Rs.41,550/-.

6) The issue as to whether the deductions are taken into consideration or not is came up for consideration before the Apex Court in *Bhushan Kumar Meen v. Mansi Meen @ Harpreet Kaur*¹, it

¹ (2010) 15 SCC 372

was a case where the trial Court granted a sum of Rs.10,000/- per month as interim maintenance, which was confirmed by the Sessions Court as well as the High Court. The argument advanced by the learned counsel for the husband before the Apex Court was that he was receiving a sum of Rs.9,000/- after deductions. In the said case, monthly salary of the husband was Rs.34,900/- out of which Rs.21,329/- was deducted towards home loan. After deductions, his carrying home salary was Rs.9,000/-. Having regard to the said circumstances and since the wife in the said case was educated lady who will be in a position to maintain herself in future, the Apex Court reduced the interim maintenance from Rs.10,000/- to Rs.5,000/-.

7) From the judgment of the Apex Court referred to above, though the take home salary of the husband therein was Rs.9,000/- the Apex Court awarded a sum of Rs.5,000/- instead of Rs.10,000/- which is almost just less than above half of his carry home salary. In the instant case, take home salary of the petitioner was Rs.41,550/-.

8) In view of the escalation of the cost of living, the expenditure which is incurred in day to day life and having regard to the facts and circumstances of the case, the quantum of monthly maintenance awarded to respondents 1 to 3 is reduced from Rs.6,000/- to Rs.5,000/- each.

9) Accordingly, the Criminal Revision Case is disposed of reducing the monthly maintenance from Rs.6,000/- to Rs.5,000/- to each of

respondents 1 to 3. The petitioner is directed to pay the arrears of maintenance calculating at Rs.5,000/- per month to each of the respondents 1 to 3, from the date of order of the appellate Court ie., 30.05.2018, within a period of two months from today and shall continue to pay the said maintenance on or before 10th of every succeeding month.

10) Miscellaneous petitions, if any, pending, shall stand closed.

07.08.2019
gkv/ ssp

JUSTICE G. SRI DEVI



