

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.2843 of 2017

ORDER :

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. challenging the order dated 10.10.2017 in CrI.A.No.108 of 2017 passed by the III Additional District and Sessions Judge, Asifabad, Adilabad District (lower appellate Court), modifying the order dt.14.07.2017 in DVC.No.1 of 2015 passed by the Additional Judicial Magistrate of First Class, Asifabad (trial Court) dismissing the DVC, and partly allowing the appeal awarding maintenance of Rs.4,000/- each to appellant Nos.2 and 3 therein from the date of petition in the lower Court i.e., 24.01.2015 till they attain majority and permitting respondent No.1 therein to pay arrears of maintenance within a period of 12 months from the date of the said order and to pay future maintenance from that date before 10th of succeeding month.

The facts of the case are that respondent No.2 is the wife and respondent Nos.3 and 4 are children of petitioner No.1, and petitioner No.2 is the mother of petitioner No.1. As petitioner No.1 developed illegal contacts with a lady and totally neglected respondent Nos.2 to 4 herein and as petitioner No.2 also supported the acts of petitioner No.1, respondent Nos.2 to 4 herein

filed DVC.No.1 of 2015 before the trial Court under Section 12 of the Protection of Women from Domestic Violence Act, seeking protection order, monitory relief, compensation and return of dowry. After hearing both sides and considering the material on record, the trial Court vide order 14.07.2017 dismissed the said DVC.No.1 of 2015.

Aggrieved by the said dismissal order dt.14.07.2017 in DVC.No.1 of 2015 passed by the trial Court, respondent Nos.2 to 4 herein filed Crl.A.No.108 of 2017 before the lower appellate Court and the lower appellate Court, after hearing both sides and on appreciation of evidence on record, vide order dated 10.10.2017 in Crl.A.No.108 of 2017, modified the order dt.14.07.2017 in DVC.No.1 of 2015 passed by the trial Court dismissing the DVC, and partly allowing the appeal awarding maintenance of Rs.4,000/- each to appellant Nos.2 and 3 therein from the date of petition in the lower Court i.e., 24.01.2015 till they attain majority and permitting respondent No.1 therein to pay arrears of maintenance within a period of 12 months from the date of the said order and to pay future maintenance from that date before 10th of succeeding month. Challenging the said order dt.10.10.2017 in Crl.A.No.108 of 2017 passed by the lower appellate Court, the petitioners, who are respondent Nos.1 and 2 in the above appeal, have filed the present Criminal Revision Case.

Heard Sri Rudresh Deshpande, learned counsel for the petitioners as well as the learned Additional Public Prosecutor appearing for respondent No.1 – State and Sri Bhanu Murthy Bala, learned counsel appearing for respondent Nos.2 to 4. Perused the material on record.

Learned counsel for the petitioners contended that respondent No.2 voluntarily left the company of petitioner No.1 and though petitioner No.1 is willing to take her back and lead matrimonial life, respondent No.2 is not interested in leading conjugal life with petitioner No.1. It is also contended that it is highly impossible for petitioner No.1 to pay maintenance @ Rs.4,000/- per month each to respondent Nos.3 and 4 till they attain majority and also arrears of maintenance as ordered by the lower appellate Court, since he is working as a coolie only and earning a sum of Rs.100/- per day. It is also contended that though the lower appellate Court observed that there is no proof or evidence that respondent No.1 therein is working as a Supervisor in a Quarry and earning Rs.15,000/- per month, erroneously it gave a finding that respondent No.1 is bound to maintain his children.

On the other hand, learned counsel for respondent Nos.2 to 4 contends that petitioner No.1 is working as a Supervisor and though the lower appellate Court ordered him to pay maintenance @ Rs.4,000/- per month each to

respondent Nos.3 and 4, till date he has not paid any amount.

A perusal of the order dt.10.10.2017 in Crl.A.No.108 of 2017 passed by the lower appellate Court shows that after considering the evidence on record and also facts and circumstances only, the lower appellate Court has rightly passed order directing petitioner No.1 herein to pay maintenance @ Rs.4,000/- per month each to respondent Nos.3 and 4 from the date of petition in the lower Court i.e., 24.01.2015 till they attain majority and as petitioner No.1 has not paid any amount towards maintenance to respondent Nos.3 and 4, till date an amount of Rs.4,64,000/- has been accrued towards arrears of maintenance.

In view of the above facts and circumstances of the case, I do not find any illegality or irregularity in the order passed by the lower appellate Court and the petitioner No.1 is directed to pay a sum of Rs.4,64,000/- (Rupees four lakhs sixty four thousand only) towards arrears of maintenance to respondent Nos.3 and 4 in six equal monthly instalments from the date of this order and shall also pay maintenance @ Rs.4,000/- (Rupees four thousand only) per month each to respondent Nos.3 and 4 from November, 2019 onwards on or before 10th of every succeeding month till they attain majority.

With the above observations and direction, this Criminal Revision Case is disposed of. Interim order of suspension dt.10.11.2017 passed by this Court automatically stands vacated for non-compliance of the said order, as observed therein.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

16.11.2019.
Msr

JUSTICE G. SRI DEVI



HON'BLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.2843 of 2017



16.11.2019
Msr