

HONOURABLE SRI JUSTICE N. BALAYOGI
CRIMINAL REVISION CASE No.3219 OF 2017

ORDER:

This Criminal Revision Case is filed aggrieved by the order in M.P. No.652 of 2016 in M.C.No.459 of 2015, dated:6.11.2017 on the file of Additional Metropolitan Sessions Judge for the Trial of JHCBB-cum-Additional Family Court, Hyderabad.

2. The contention of the petitioner is that respondent No.2 is also earning merely gross salary of Rs.65,000/- per month but whereas, petitioner is earning nearly Rs.80,000/- per month. There is an obligation on the part of respondent No.2 to maintain children who are respondent Nos.3 and 4. Whereas, Counsel for the respondent Nos.2 to 4 contended that the Trial Court while granting interim maintenance considered the same fact and allowed only meager maintenance amount at the rate of Rs.5,000/- to each respondents 3 and 4. From the record, it is clear that respondent No.2 is the wife, respondents 3 and 4 are children of the petitioner. The marriage between petitioner and respondent No.2 was solemnized on 11.11.2012 as per Muslim rights. Differences arose between petitioner and respondent No.2 when she was pregnant for the second time and due to differences they are living separately. The allegation is that petitioner is making harassment for demand of vehicle and also additional dowry.

3. From the counter, it is clear that the petitioner filed O.P. No.1220/2016 for restitution of conjugal rights and the same is pending. Subsequently, after filing M.C.No.459/2015, there was also a mediation before the elders and both the parties entered into an

agreement dated:12.10.2014 with regard to maintaining cordial relationship with each other family members and to lead the married life without creating any problems.

4. In the M.C.No.459/2015, the respondents filed M.P. No.652/2016 for interim maintenance. The Trial Court came to conclusion that the petitioner neglected respondents 2 to 4 and to maintain having sufficient means. There is no dispute with regard to relationship between the petitioner and respondents 2 to 4.

5. Further, in the case of Padmja Sharma-appellant Vs. Ratan Lal Sharma-respondent¹, the Apex Court held that where both parents are employed and wife getting salary of Rs.3,100/- per month and husband is getting a salary of Rs.5,850/- per month, therefore, wife is also obliged to contribute in the maintenance of children. Salaries of both the parents have since increased with the course of time, in the same proportionate, may be perhaps in the case of an employee of Reserve Bank of India at somewhat higher rate. Accordingly, enhanced maintenance.

6. In the instant case, even according to the submissions of the petitioner, the respondent No.1-wife is earning Rs.65,000/-, whereas the husband-petitioner is earning Rs.80,000/-. In the impugned order, the Trial Court found that the respondent being father of the children is bound to maintain them. The wife-respondent No.1 though is employed did not disclose the nature of her employment and her salary. But the petitioner herein - husband produced copies of salary slips from Telangana Seeds Development Corporation Limited,

¹ AIR 2000 SUPREME COURT 1398

Hyderabad for the year 2015, her gross salary was Rs.44,693/- and after deductions, she was getting Rs.32,981/-. As per the pay slip for the month of January-2016, the gross salary was Rs.57,292/- and after deductions net salary was Rs.48,232/-. The respondent salary slip for the month of February, 2016 shows that the gross salary is Rs.79,665/-, after deductions major portion of salary Rs.25,000/- is towards LIC-Housing Finance Loan and Rs.22,860/- is towards provident fund loan recovery and the net salary is Rs.14,119/-. He did not disclose when he took the loans. He only filed the said salary slip but not previous salary slips. The Trial Court further observed that by showing all these deductions, he cannot escape his liability to maintain the children though the respondent No.1 is getting salary of Rs.45,000/-; that amount will be sufficient to meet all the requirements including the medical expenditure of herself and children and thus, the respondent has to pay maintenance to the children at the rate of Rs.5,000/- which would be just and proper. The medical expenditure incurred by the mother is also filed. From the documents filed by the petitioner himself wherein the medical reimbursement of first daughter for voucher No.552, dated:03.6.2014 is Rs.27,792/- and for second daughter vide voucher No.64, dated:22.4.2016 is Rs.34,476/-, which is the medical expenditure incurred by the mother of respondents 3 and 4 for health of their children.

7. In view of the above facts and circumstances, the Trial Court considered the income of the respondent No.2 and also income of the petitioner and awarded only meager amount of Rs.5,000/- each to petitioner Nos.2 and 3/respondent Nos.3 and 4 only towards interim maintenance which I do not find any error or infirmity warranting interference of the orders passed by the Trial Court in M.P. No.652 of

2016 in M.C.No.459 of 2015, dated:6.11.2017 and therefore, while confirming said interim maintenance of the Trial Court, the main Criminal Revision Petition is disposed of.

8. Learned Counsel for the petitioner made an oral request that petitioner may be granted some time to pay arrears of interim maintenance. Accordingly, petitioner is directed to pay all arrears of interim maintenance within three weeks from today.

9. Accordingly, the Criminal Revision Petition is disposed of confirming the orders of the Trial Court.

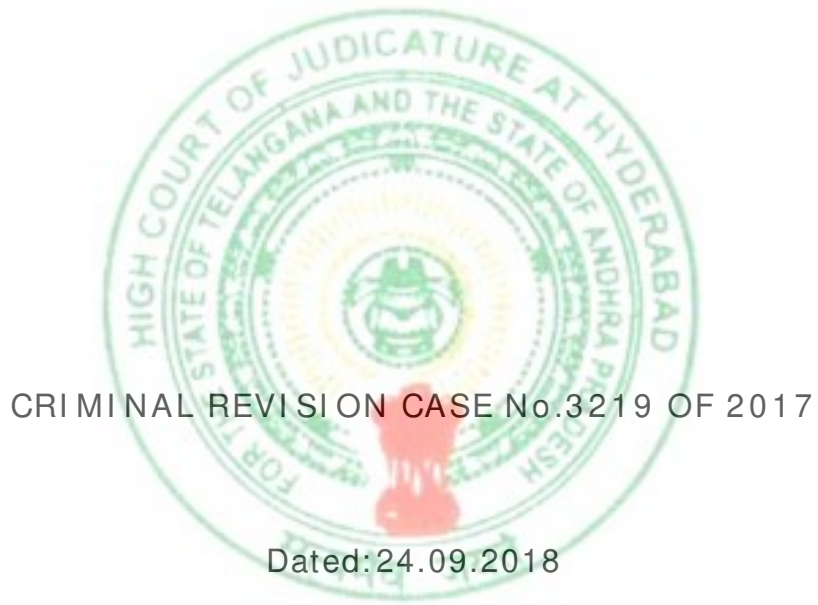
Pending Miscellaneous Petition/s, if any, shall stand closed.

Dated:24.09.2018
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JUSTICE N. BALAYOGI

HONOURABLE SRI JUSTICE N. BALAYOGI



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