

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CRIMINAL REVISION CASE No.359 of 2006

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., questioning the order dated 03.01.2006 passed by the Additional Metropolitan Sessions Judge for the Trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, Hyderabad, in M.P.No.993 of 2004 in M.C.No.229 of 1996 enhancing the maintenance granted to the petitioner from Rs.1,000/- to Rs.1,500/- per month.

In the affidavit filed in support of the aforesaid M.P., the petitioner asserted that the learned Judge *vide* order, dated 09.07.2003 in M.P.No.405 of 2002, granted maintenance of Rs.1,000/- and Rs.2,000/- to herself and to her son respectively; that as her son attained the age of majority, respondent No.2 is not paying the amount to him and still, her son is studying Intermediate and money is required therefor; that she is residing in a rented house paying the rent of Rs.800/- per month; that respondent No.2 is working as Senior Job Setter in Hindustan Machine Tools, Hyderabad, and is living in own house and that there are no dependants to him. In the circumstances, she prays for enhancing the maintenance from Rs.1,000/- to Rs.5,000/-. After receipt of notice, respondent No.2 filed a counter stating that the petitioner has abandoned him about 16 years back and their son had attained majority, as such, there is no obligation on his part to pay

maintenance; that he had two widow sisters living with him and he is looking after their children and that his take-home salary is Rs.7,850/- per month, out of which, a sum of Rs.3,400/- is being deducted towards loan. In the circumstances, he prays dismissal of the petition.

The Court below having examined the record and having found that respondent No.2 is drawing a gross salary of Rs.11,994/- per month and is receiving a sum of Rs.5,190/- per month after deductions, namely, Rs.3,000/- per month towards VPF, Rs.1,205/- towards PF, Rs.2,300/- towards Court recovery and Rs.3,400/- towards loan, granted maintenance of Rs.1,500/- from the date of the order.

In the present case, though the petitioner complains that the Court below has not enhanced the maintenance amount to Rs.5,000/-, there is no basis on which the said enhancement could be granted and any material to support the contention of the petitioner that respondent No.2 has means to pay. It may be noted that the take-home pay of respondent No.2 as on the date of the order was only Rs.5,190/- per month. Though there may not be any house rent to be paid by respondent No.2, it is found that respondent No.2 is living in the house purchased by his father thereby there is involvement of certain amount of maintenance costs apart from paying municipal taxes etc.

Viewed from that angle, if enhancement is to be made as demanded by the petitioner, there will be hardly anything left for sustenance of respondent No.2. Maintenance amount having been fixed based on the material on record and there being no material available, the prayer of the petitioner cannot be considered.

In those circumstances, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in this revision shall stand dismissed. There shall be no order as to costs.

Dt:05.02.2020

kdl

CHALLA KODANDA RAM, J

