

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2109 OF 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioner/husband aggrieved by the order, dated 18.02.2019, passed in I.A.No.754 of 2016 in H.M.O.P.No.628 of 2015 by the Judge, Family Court, Secunderabad, wherein the Court below has partly allowed the subject Interlocutory Application granting interim maintenance of Rs.5,000/- per month to the respondent/wife from the date of order.

2. Heard the learned counsel for the petitioner/husband and perused the record.

3. Learned counsel for the petitioner/husband would submit that grant of Rs.5,000/- per month towards interim maintenance to the respondent/wife, vide the order under challenge, is excessive. A perusal of the order under challenge and the material placed on record reveals that the Court below has not dealt with the factual aspect of grant of maintenance at Rs.4,000/- per month under Section 125 Cr.P.C. in favour of the respondent/wife and against the petitioner/husband and vide the order under challenge, granted Rs.5,000/- per month towards interim maintenance to the respondent/wife from the date of order. The Court below ought not have granted Rs.5,000/- per month as interim maintenance to the respondent/wife. In the given circumstances, higher amount granted as maintenance is

required to be retained and ultimately, sought a direction to modify the order under challenge directing the petitioner/husband to pay only the highest amount awarded towards maintenance to the respondent/wife. The learned counsel, in support of her submissions, relied on a decision of the Honourable Supreme Court in Sanjay Kumar Sinha v. Asha Kumari and another<sup>1</sup> and a decision of the Bombay High Court in Vishal v. Aparna and another<sup>2</sup>.

4. By the order under challenge, the Court below was pleased to grant interim maintenance at Rs.5,000/- per month to the respondent/wife from the date of order, having considered the amount of Rs.4,000/- per month granted towards maintenance to the respondent/wife under Section 125 Cr.P.C. In Vishal's case (supra 2), there was adjustment of the amounts granted towards maintenance in different proceedings, if the maintenance granted initially by a Court is not taken into consideration by the subsequent Court, while granting maintenance again. In the instant case, the Family Court was pleased to look into the fact of grant of maintenance under Section 125 Cr.P.C. and in the given circumstances, arrived at a conclusion in the subject Interlocutory Application. Now-a-days the cost of living is so high. The grant of interim maintenance at Rs.5,000/- per month is only from the date of order under challenge, taking into consideration the maintenance granted

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<sup>1</sup> CDJ 2018 SC 376

<sup>2</sup> CDJ 2018 BHC 838

under Section 125 Cr.P.C. The same is not excessive. Under these circumstances, no modification is warranted. Furthermore, there is no legal infirmity in the order under challenge to take a different view. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

January 29, 2020.  
MD

Dr. SHAMEEM AKTHER, J

