

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 554 of 2008

ORDER:

1. Heard Sri M.K.Raj Kumar, learned counsel for the revision petitioner; Sri D.Madhava Rao, learned counsel for the respondent Nos.1 to 3 and learned Public Prosecutor appearing for the Respondent No.4.

2. Challenging the order dated 18.1.2008 passed in M.C.No.16 of 2007 on the file of the Principal Junior Civil Judge, Mangalagiri, wherein the application made by respondent No.1 herein and two children (respondents 2 and 3 herein) was allowed granting maintenance @ Rs.1,000/- to the respondent No.1 herein and @ Rs.500/- each to respondents 2 and 3 herein, the present revision is filed.

3. Originally, an application under Section 125 Cr.P.C. came to be made claiming maintenance at the rate of Rs.3,000/- per month to each of respondents 1 to 3 herein from the date of the petition.

4. The averments in the petition are as under :

The 1st respondent is the legally wedded wife and respondents 2 and 3 are daughter and son of the revision petitioner. The marriage between respondent No.1 and the revision petitioner was performed on 30.4.1987 as per Hindu Rites and Customs. At the time of marriage, the parents of respondent No.1 gave Ac.1.00 cents of land, Rs.25,000/- cash and 10 sovereigns of gold to revision petitioner. The respondent No.1 joined the revision petitioner at

Satyanarayanapuram to lead marital life. Later, the revision petitioner started harassing the respondent No.1 physically and mentally. During the course of wedlock, the respondent No.1 gave birth to respondent Nos.2 and 3. In the year 1993, revision petitioner shifted his family from Satyanarayanapuram to Krishnalanka, Vijayawada and in Vijayawada he worked as clerk in a shop situated at RTC Bus Stand, Vijayawada. Even there, he did not stop his harassment. Later, the 1st respondent sold away the said one acre of land and gave Rs.1,00,000/- to the revision petitioner. In spite of the same, revision petitioner did not stop his harassment. In the year 2004, the revision petitioner and the 1st respondent shifted their family to Sundarayyanagar, Tadepalli. On 2.9.2006, at about 8.00 PM the revision petitioner came to Sundarayyanagar in a drunken state, beat the respondent No.1 and necked her out of the house. Later, the respondent No.1 approached the Tadepalli Police and lodged a report.

5. A Counter came to be filed by the revision petitioner opposing the same. The brief averments in the counter are as under :

Some of the near relatives brought the marriage alliance to the parents of the revision petitioner by suppressing the earlier marriage of the respondent No.1. The parents of respondent No.1 have not given anything, except the marriage expenditure of Rs.10,000/-. It is said that giving one acre of land etc., is absolutely false. The respondent No.1 also has a desire to lead very luxurious life, but the revision petitioner is not having that much of capacity to satisfy her wishes. Because of that, differences arose between them. Even during the stay of respondent No.1 at

Satyanarayanapuram, she was going to the house of her father without intimating or taking permission of the revision petitioner and she mostly stayed at her father's house denying the conjugal life.

6. It is further stated in the counter that in the year 1991, the revision petitioner joined in a shop at RTC bus stand as a daily wage worker for a period of one year only and later revision petitioner used to go for masonry coolie work and used to maintain his family for some time. Later, he joined in a motor pump set shop at Tenali and purchased a house site at Angalakuduru in the month of March 1999 in the name of the 1st respondent out of love and affection and he completed the construction. After completion of the said construction, regularly the respondent No.1 used to dominate the revision petitioner and picked up quarrels with him. The respondent No.1 necked out the revision petitioner from his house on two occasions and thereafter, the respondent No.1 started hotel business and used to earn Rs.500/- per day.

7. In support of her case, respondent No.1 – wife examined P.Ws.1 to 3 and got marked Exs.P1 to P7. On behalf of revision petitioner – husband, R.Ws.1 and 2 were examined and no documentary evidence was marked.

8. Considering the evidence available on record, the trial court awarded the amounts as observed earlier. Challenging the same, the present revision petition is filed.

9. Sri M.K.Raj Kumar, learned counsel for the revision petitioner, would submit that granting of maintenance by the trial court, in the absence of evidence that the revision petitioner

neglected or refused to maintain respondents, is improper, incorrect; in any event, it is pleaded that two children (respondents 2 and 3 herein) have become majors and as such, they are not entitled for any amount.

10. In respect of maintenance to the children is concerned, no document has been filed to show that they obtained majority and that they are not entitled for payment. Hence, liberty is given to the revision petitioner to make an appropriate application before the trial court for cancellation of the maintenance granted to the children; in which event, the court shall deal with the same in accordance with law.

11. Coming to the maintenance awarded to the 1st respondent – wife, the material on record show that the revision petitioner claims to be doing coolie work and he is also unwell. Further, the revision petitioner denies marriage with the respondent No.1. But, a perusal of the averments in the counter filed by him before the trial court makes it very clear that there is no factum of denial of any marriage between the revision petitioner and the 1st respondent. On the other hand, it shows that there was marriage between both of them.

12. Apart from this, it is to be noted that there is inconsistency in the version of the revision petitioner. On one hand he says that there is no marriage between him and the 1st respondent, while, on the other hand, he pleaded that 1st respondent desires to lead a luxurious life and she used to stay in her parents' house denying conjugal life. The stand taken by the revision petitioner – husband itself being inconsistent, his argument that the 1st respondent is not his wife cannot be accepted.

13. Coming to the quantum of maintenance, it is to be noted that P.W.1 (respondent No.1 herein) in her evidence deposed that the revision petitioner has got Ac.1.00 of land, but, the revision petitioner as R.W.1 deposed that the said one acre of land is in court attachment and he is not getting any income; as such, the same cannot be taken into consideration for fixing the quantum of maintenance. However, if really, the said land was attached, as contended, nothing prevented him to file necessary documents in support of the same before the court. No document is filed on behalf of the revision petitioner to prove the same.

14. As the revision petitioner failed to prove that there was no relationship between him and the respondent No.1 and having regard to the fact that he has some income, being the able bodied person and has Ac.1.00 of land, the maintenance granted by the trial court to the 1st respondent – wife warrants no interference.

15. With the above, the Criminal Revision Case is disposed of.

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

JUSTICE C.PRAVEEN KUMAR

13th February, 2020

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