

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2017

BEFORE

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

CRIMINAL PETITION NO.6513/2015

C/W

WRIT PETITION NO.26034/2017(GM-FC)

BETWEEN:

THIMMARAYIGOWDA
S/O LATE KEMPEGOWDA
AGED ABOUT 53 YEARS
R/O NEHRUNAGAR, 8TH CROSS
BEHIND SURAKSHA
NURSING HOME
MANDYA CITY-571 404.

... COMMON PETITIONER

(BY SRI. SHIVARAMU H.C., ADVOCATE)

AND:

SMT. DHANALAKSHMI
D/O T M. RAMAIAH
W/O THIMARAYIGOWDA
AGED ABOUT 45 YEARS
R/O MALLASANDRA VILLAGE
THATTAKERE POST
HONAKERE HOBLI
NAGAMANGALA TALUK
MANDYA DISTRICT-571 432.

... COMMON RESPONDENT

(BY SRI. RAGHUNATH, ADVOCATE FOR
SRI B.G.RAJASHEKAR, ADVOCATE)

CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC. PRAYING TO SET ASIDE THE ORDER DATED 02.07.2015 PASSED BY THE PRL. S.J., MANDYA IN CRL.R.P.NO.112/2014 AND THE ORDER DATED 13.12.2013 PASSED BY THE C.J. AND J.M.F.C, NAGAMANGALA IN C.MIS.NO.52/2009 AND ALLOW THIS PETITION.

WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 9.2.2017 PASSED BY THE LEARNED PRINCIPAL CIVIL JUDGE AND CJM AT MANDYA IN M.C.NO.154/2015 ON I.A.NO.1 AT ANNEXURE-G.

THESE PETITIONS COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

By consent of learned Advocates appearing for parties, these petitions are taken up together for being heard and disposed of by this order.

2. Heard Sri. Shivaram H.C, learned Advocate appearing for petitioner- husband in both petitions and Sri.Raghunath, learned Advocate appearing on behalf of Sri. B.G. Rajashekar for respondent- wife in both petitions. Perused the records.

3. The short point which would arise for consideration in these petitions is:

“Whether maintenance awarded to respondent-wife by the respective Courts is excessive or not commensurate with the claim made by respondent-wife?”

4. There is no dispute with regard to relationship between the parties. Sri Raghunath, learned Advocate appearing for respondent, during the course of arguments, has made available salary certificate of the petitioner which would disclose that for the month of August, 2016 gross salary drawn by the petitioner is ₹ 46,052/- p.m..

5. Respondent-wife filed a petition under Section 125 Cr.P.C. in C.Misc.No.52/2009 seeking maintenance of ₹ 9,000/- per month which came to be considered by trial Court and by order dated 13.12.2013, a sum of ₹ 6,500/- per month came to be awarded after evaluating evidence tendered by respondent-wife. The revisional Court confirmed the said order in CrI.R.P.No.112/2014 by order dated 02.07.2015.

6. During the pendency of said proceedings, petitioner-husband filed a petition under Section 13A and 1B of Hindu Marriage Act, 1955 for dissolution of marriage in M.C.No.154/2015 whereunder application under Section 24 of the Hindu Marriage Act, 1955 came to be filed by respondent-wife seeking for maintenance @ ₹ 20,000/- p.m.. Trial Court taking into consideration that respondent-wife has already been awarded a sum of ₹ 6,500/- per month in CrI.Misc.No.52/2009 has awarded maintenance of ₹ 1,500/- p.m. It is also stated by learned Advocate appearing for respondent that petitioner has now re-married and is also having a child out of second marriage which fact is also not disputed by Sri. Shivaram H.C, learned Advocate appearing for petitioner.

8. Taking into consideration that respondent – wife is residing at Mallasandra, Nagamangala, Mandya District, maintenance of ₹ 7,500/- per month would

suffice to meet her expenditure and as such in substitution to the order passed in Crl.Misc.No.52/2009, a sum of ₹ 6,000/- per month is awarded to the respondent from the date of filing of the petition during her life time. To this extent alone, order of trial Court deserves to be modified. It is made clear that order passed in M.C.No.154/2015 awarding a sum of ₹ 1,500/- per month to the respondent – wife is not disturbed.

Hence, I proceed to pass the following:

ORDER

- 1) Criminal Petition No.6513/2015 is hereby allowed in part.
- 2) Order dated 13.12.2013 passed by Civil Judge & JMFC, Nagamangala in Crl.Misc.No.52/2009 is hereby modified and a sum of ₹ 6,000/- per month is hereby directed to be paid by petitioner-husband to respondent-wife from the date of filing of the petition during lifetime of respondent-wife.

- 3) Writ petition No.26034/2017 is hereby dismissed.
- 4) Order dated 09.02.2017 passed by Prl.Senior Civil Judge & CJM, Mandya in M.C.No.154/2015 on I.A.No.1/2017 is hereby affirmed.
- 5) No costs.

**SD/-
JUDGE**

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