

Mohan Vs. Rekha

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Court : Karnataka

Decided On : Jun-17-2008

Reported in : 2009(1)KarLJ173

Judge : H.N. Nagamohan Das, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125

Appeal No. : Criminal Petition No. 168 of 2006

Appellant : Mohan

Respondent : Rekha

Advocate for Def. : Madan Mohan M. Khannur, Adv.

Advocate for Pet/Ap. : R.L. Patil, Adv. for ;Patil and ;Patil, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

H.N. Nagamohan Das, J.

1. Petitioner and one Geeta Bai got married on 4-5-1993. On account of certain differences between the petitioner and his wife, he filed M.C. No. 13 of 1998 for dissolution of marriage. On 13-8-1998 petitioner and his wife filed a compromise

petition in M.C. No. 13 of 1998 and accordingly the marriage came to be dissolved. In terms of the compromise the petitioner has paid a permanent alimony of Rs. 35,000/- to his wife Geetha Bai.

2. Thereafter, the respondent herein claiming to be the daughter of the petitioner filed Cri. Misc. No. 61 of 1999 on the file of the Civil Judge (Junior Division) and Judicial Magistrate First Class Haveri for grant of maintenance under Section 125 of the Criminal Procedure Code, 1973. In this Cri. Misc. No. 61 of 1999 the petitioner entered appearance and filed objections inter alia contending that the respondent is not his daughter. Before the Trial Court, the respondent got examined two witnesses as P.Ws. 1 and 2 and got marked documents as Exs. P. 1 to P. 4. On the other hand, the petitioner has got adduced any evidence nor produced any documents.

3. The Trial Court on appreciation of the material on record concludes that the respondent is the daughter of the petitioner and directed to pay monthly maintenance of Rs. 300/-. Aggrieved by this order of the Trial Court, the petitioner filed a criminal revision petition in Cri. R.P. No. 90 of 2004 on the file of the Sessions Judge at Haveri. By a reasoned order, the Revisional Court dismissed the revision petition filed by the petitioner under the impugned order dated 2-7-2005 but granted a monthly maintenance of Rs. 200/- to the respondent. Aggrieved by this order of the Trial Court, the petitioner is before this Court.

4. Heard the arguments on both sides and perused the petition papers.

5. It is the specific case of the petitioner before the Trial Court that the respondent is not his daughter. In support of this contention, the petitioner has not adduced any oral or documentary evidence before the Trial Court. In the absence of any evidence on the side of the petitioner, both the Courts below have concurrently held that the respondent is the daughter of the petitioner. This finding of both the Courts below is supported by available evidence on record.

6. Though the petitioner has taken a plea that the respondent is not his daughter the same is not justified by adducing acceptable and legal evidence. In the circumstances, the impugned orders of both the Courts below that the respondent

is the daughter of the petitioner and that he is liable to pay maintenance, is in accordance with law and I find no justifiable ground to interfere with the same.

7. The Revisional Court by taking into consideration the obligation of the petitioner as a father and Smt. Geetha Devi, the mother of respondent and also, by taking into consideration the meager income of the petitioner, has rightly modified the order of the Trial Court and granted a monthly maintenance of Rs. 200/-. This finding of the Revisional Court in the facts of the case is reasonable and just.

8. For the reasons stated above, the petition is hereby rejected.

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