

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 511 OF 2016

Criminal Revisions Under Sections 397 & 401 of Cr.P.C against the
Order made in M.C.No.20 of 2013 dated 08.12.2015 on the file of the Court of
the Judge, Family Court at Secunderabad.

Between:

B.Ravindra Desai S/o Late B.Kattaiah, Aged about 38 years, Occ Business R/o.
Parakala Village and Mandal, Near Padma Shali Community Hall and Parakala Bus
stand, Warangal District. And

...REVISION PETITIONER/RESPONDENT
AND

1. The State of Telangana Represented by its Public Prosecutor, High Court of
Judicature at Hyderabad, And for the State of Telangana and For the State of
Andhra Pradesh
...RESPONDENT
2. Master B. Swarnik @ B.Swarnik Venkata Satya Hari, Haran Desai, S/o
B.Ravindra Desai, Aged about 4 years, Occ Student, Rep. by his mother and
natural guardian, K.Rekha, W/o B.Ravindra Desai, Aged about 35 years, Occ
Service R/o 6-4-462/1/4, Krishna Nagar Colony, Bolakpur, Secunderabad.
3. K.Rekha, W/o B.Ravindra Desai, Aged about 35 years, Occ Service R/o 6-4-
462/1/4, Krishna Nagar Colony, Bolakpur, Secunderabad.

...RESPONDENTS/PETITIONERS

CRL.R.C.M.P. NO: 695 OF 2016

Petition under Section 397(1) Cr.P.C praying that in the circumstances
stated in the affidavit filed in support of the petition, the High Court may be
pleased to stay all further proceedings in M.C.No.20/2013 on the file of the Court
of the Judge Family Court at Secunderabad.

Counsel for the Petitioner : SRI. S.R.SANKU AND
KAVITI MURALI KRISHNA (NOT PRESENT)

Counsel for the Respondent No.1 : M/s VIZARATH ALI
ASSISTANT PUBLIC PROSECUTOR

Counsel for the Respondent No.3 : SRI C.HARI PREETH

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL

CRIMINAL REVISION CASE No.511 OF 2016

O R D E R:

This Criminal Revision Case is filed by the petitioner herein aggrieved by the order in M.C.No.20 of 2013, dated 08.12.2015 passed by the learned Judge, Family Court at Secunderabad (for short, "the trial Court").

2. No representation on behalf of the petitioner. Heard Mr. Vizarath Ali, learned Assistant Public Prosecutor appearing for the respondent State.

3. There was no representation on behalf of the petitioner on 25.03.2022, 22.06.2022, 07.08.2023, 14.08.2023 and 22.08.2023. Even today also there is no representation on behalf of the petitioner. Therefore, this Court is inclined to proceed with the matter on merits of the case as per the decision of the Hon'ble Apex Court in "***Bani Singh and others Vs. State of Uttar Pradesh***¹", wherein it was categorically held that the High Court cannot dismiss any appeal for non-prosecution *simpliciter* without examining the merits.

¹ (1996) 4 Supreme Court Cases 720

4. The brief facts of the case are that the marriage between the petitioner and respondent No.3 was performed on 27.04.2008, it was a second marriage to both the parties, the first husband of respondent No.3 was died while in service in Mines and Geological Department, after the death of her husband, she got employment on compassionate grounds and was working as Junior Assistant, respondent No.3 had a daughter with her first husband by name Vyjayanthi, aged 13 years, studying 9th standard. She was under the care and custody of respondent No.3. Petitioner was not having any male children, as his first wife was unfit for matrimonial life, he proposed to marry respondent No.3, both the families also agreed for the marriage, it was an arranged marriage with all formalities.

5. After the marriage, respondent No.3 joined the company of the petitioner and both lived happily, as they were not having male children, they adopted a male child by name Master Raj Harin, who was aged 4 years by the date of filing of M.C. Subsequently, respondent No.3 was blessed with a male child by name Master B. Swarnik i.e, respondent No.2 herein, he was also aged 4 years by the date of filing of M.C., respondent No.3 was looking after and maintaining her both sons and daughter with

her own income. The petitioner is a habitual drunkard, having bad habits, respondent No.3 requested him to mend his ways but he started harassing her both mentally and physically by demanding additional dowry and raising quarrels on petty issues.

6. As they did not accede to his illegal demands, the petitioner left the company of respondents, the elders tried to reconcile but the petitioner failed to maintain respondent No.3 and their children. Therefore, respondent No.3 preferred the M.C.No.20 of 2013 seeking for maintenance. The learned Judge, Family Court at Secunderabad has partly allowed the M.C., by awarding a monthly maintenance of sum of Rs.5,000/- to respondent No.2 payable by the petitioner from the date of that petition on or before 10th of every month through online banking service and also a sum of Rs.5,000/- towards legal expenses. Aggrieved by the same the present Revision.

7. Learned counsel for the petitioner submitted that the maintenance amount awarded is quite exorbitant. He contended that respondent No.3 was a Junior Assistant and she could maintain her children and he has no means to pay the maintenance. Therefore, seeks to set aside the order passed by the trial court.

8. Learned Assistant Public Prosecutor submitted that the trial court after appreciating the oral and documentary evidence available on record in proper perspective rightly passed the order by granting an amount of Rs.5,000/- per month to respondent No.2 which is meager in view of escalation of prices in today's context. Therefore, seeks to dismiss the Revision.

9. On behalf of the prosecution, the trial court examined PW1 and PW2 and marked Exs.A1 and A2. On behalf of the defense, RW1 and RW2 were examined and no documents were marked. After appreciation of the oral and documentary evidence available on record the trial court observed that respondent No.2 was entitled to proper schooling keeping in view the status of petitioner and respondent No.3 and therefore, granted maintenance @ Rs.5,000/- per month to respondent No.2.

10. A perusal of the record shows that the matter pertains to the year, 2016 and this Court vide order dated 11.02.2016 granted interim stay on condition of petitioner depositing the arrears calculating at the rate of Rs.2,500/- per month towards maintenance to respondent No.2, within a period of six months from the date of receipt of a copy of that order and also continuing to pay the maintenance every month to respondent

No.2 at Rs.2,500/- per month, on or before 10th of every succeeding month. Till date, nothing is available on record to show that the order passed by this Court is complied with.

11. Upon careful consideration of the entire material available on record, this Court is of the view that the maintenance granted to respondent No.2 is very meagre and appropriate. Challenging such a meagre amount is not permissible at this stage as the cost of living standards of the people have escalated. Hence, I do not find any reason to interfere with the order passed by the trial Court. Therefore, this Court is not inclined to entertain the Revision as the same is devoid of merits.

12. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- I. NAGA LAKSHMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Judge, Family Court at Secunderabad (With Records, if any)
2. One CC to Sri S.R.Sanku & Kaviti Murali Krishna Advocate (OPUC)
3. One CC to Sri C.Hari Preeth , Advocate (OPUC)
4. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
5. Two CD Copies

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spt

CHR

HIGH COURT

DATED:31/08/2023

ORDER

CRL.R.C.No.511 of 2016



DISMISSING THE CRL.R.C.

8
C.R.C.
16/10/23