

**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 HON'BLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE No: 414 of 2014

Criminal Revision Case under Sections 397 & 401 of Cr.P.C. against the Judgment dated 03-02-2014 made in D.V.Appeal No.429 of 13 on the file of the Court of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge at Hyderabad, against the order dated 28-04-2013 in Crl.M.P.No.396 of 12 in DVC No.393 of 12 on the file of the Court of the III Metropolitan Magistrate, at Erramanzil, Hyderabad.

Between:

D.Dharma Prakash, S/o. Chandra Prakash, Aged about 32 years, Occ:Private Employee, R/o. H.No.6-10, Road No. 7, Bhavani Nagar, Dilsukhnagar, Hyderabad.

...Petitioner/Respondent

AND

1. The State of A.P. represented by the Public Prosecutor, High Court of A.P., Hyderabad.

...Respondent No.1

2. Smt. D.Shravathi, W/o. Dharma Prakash, aged about 26 years, Occ:Housewife, R/o. H.No.5-2-581, Risala Abdulla, Osmangunj, Hyderabad.

...Defacto Complainant/Respondent

CRLRCMP. NO: 705 OF 2014

Petition under Section 482 of 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 suspend the Judgment in DVC.No.429 of 2013, dated. 03-2-2014 on the file of the Special Judge for Economic Offence-cum-VIII Additional Metropolitan Sessions Judge at Hyderabad by imposing the condition of paying of Rs.10,000/- per month to the Defacto Complainant by the petitioner pending disposal of the CrlRC.

Counsel for the Petitioner: SRI CH. VENKAT RAMAN (Not Present)

**Counsel for the Respondent No.1: SRI VIZARATH ALI, ASSISTANT PUBLIC
PROSECUTOR**

Counsel for the Respondent No.2: None Appeared

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL**CRIMINAL REVISION CASE No.414 OF 2014****O R D E R:**

The present Criminal Revision Case is filed against the judgment dated 03.02.2014 in granting conditional visiting rights to the petitioner in D.V. Appeal No.429 of 2013 on the file of the learned Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, at Hyderabad (for short, "the lower appellate court") by setting aside the order dated 20.04.2013 of the learned III Metropolitan Magistrate, at Errmanzil, Hyderabad (for short, "the trial court") in Crl.M.P.No.396 of 2013 in D.V.C.No.393 of 2012.

2. There is 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 23.08.2023 and 30.08.2023. Even today also there is no representation on behalf of 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", whereir it was categorically held that the High Court cannot dismiss any appeal for non-prosecution *simpliciter* without examining the merits.

4. The brief facts of the case are that respondent No.2 is the lawfully wedded wife of the petitioner. They were blessed with a female child out of their wed lock. The petitioner filed an application under Section 21 of the Protection of Women from Domestic Violence Act seeking to grant him visiting rights to visit the residence of respondent No.2 to see his daughter on every sunday between 9:00 A.M. and 5:00 P.M. The trial court vide order dated 20.04.2013 in Crl.M.P.No.396 of 2013 in D.V.C.No.393 of 2012 dismissed the said application by observing that there was insecurity to the safety of the child and the mother and thus, visitational rights cannot be granted. Aggrieved by the same, the petitioner preferred a D.V. Appeal before the lower appellate court.

5. The lower appellate court vide judgment dated 03.02.2014 in D.V. Appeal No.429 of 2013 allowed the appeal by setting aside the order passed by the trial court subject to following conditions:-

¹ (1996) 4 Supreme Court Cases 720

(a). The petitioner was permitted to take the child on 4th Monday of every month and visitation period is one hour and the place of visitation is at DVC court where the DVC proceedings were pending. The DVC court was directed to depute a constable at the DVC court during the visitation period.

(b). The mother shall handover the child to the father in the presence of the security personnel for visitation period. If the Monday was a holiday, the next working day shall be the visitation day.

(c) The petitioner was directed to pay a sum of Rs.10,000/- per month towards immediate necessity of the mother and child until final orders are passed in pending maintenance Crl.M.P. and the amount paid in pursuance of these directions shall be adjustable in the order to be passed in the interim applications filed for maintenance pending before the DVC court. The amount fixed will not come in the way of the fixation of a fair amount in the pending application before the primary court.

(d) The first visitation rights shall start from 17.02.2014, the first Monday and such commencement is subject to payment of Rs.10,000/- as ordered by this court on or before 14.02.2014. The said amounts were directed to be deposited to the account of the respondent No.2. If there was no bank account the same shall be paid by cash or D.D. If respondent No.2 refuses to receive the amount, the same shall be deposited before the primary court for disbursal on proper intimation. If the amounts are not paid or deposited as directed by the lower appellate court, the petitioner was not entitled for any visitation rights. Any default in payment of future maintenance would disentitle the party to visitation rights until conditions are complied with.

(e) Respondent No.2 was directed to handover the child in the presence of the security personnel to be deputed by the primary judge to the petitioner for visiting period and the petitioner was directed to take all safeguards keeping in view the security of the child and mother.

(f) For extension of the visitation period, if good rapport is maintained with the child, the petitioner was permitted to move an application before the primary judge. If any such application is filed, the primary judge can pass appropriate orders keeping in view the interest of both the parties.

6. Aggrieved by the same, the present Revision. This court vide order dated 04.03.2014 granted interim suspension of the operation of the judgment passed by the lower appellate court on condition of the petitioner paying Rs.5,000/- per month to the *de facto complainant*, pending disposal of the Revision. Till date nothing is available on record to show that the order passed by this court is complied with.

7. Learned Assistant Public Prosecutor submitted that the due care and protection of child is of utmost importance and the lower appellate court, after considering the oral and documentary evidence in proper perspective rightly passed an elaborate judgment and therefore, submits that the interference from this court is unwarranted. Therefore, seeks to dismiss the Revision.

8. A perusal of the material available on record shows that the lower appellate upon careful consideration of the facts and

circumstances, rightly passed an elaborate judgment by holding that when temporary custody is given to one of the parents, the other parent should not be insulated from the personal touch or influence. Parental touch is very important for over all healthy growth and development of the personality of a minor. Love and affection of the father is most wanted for the healthy development of a child. If the father is left out of child for longer period, a beginning has to be made to have the parental touch. Therefore, I do not find an irregularity or perversity in the judgment passed by the lower appellate court. Hence, the Revision is devoid of any merit and liable to be dismissed.

9. Accordingly, the Criminal Revision Case is dismissed. Interim order granted earlier is vacated in the light of this final order.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- T. SRINIVAS
DEPUTY REGISTRAR
//TRUE COPY//

SECTION OFFICER

To,

1. The Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge at Hyderabad.
2. The III Metropolitan Magistrate, at Erramanzil, Hyderabad.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
4. One CC to SRI CH. VENKAT RAMAN, Advocate [OPUC]
5. Two CD Copies

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NJB 

HIGH COURT

DATED:31/08/2023

ORDER

CRLRC.No.414 of 2014



THE CRIMINAL REVISION
CASE IS DISMISSED

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16/10/23
JHK