



CNR: KAHC010061012022

NC: 2026:KHC:51470
CRL.P No. 1167 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO. 1167 OF 2022

BETWEEN:

1. RAGHAVENDRA SHETTY
S/O ASHWATHANARAYANA SHETTY
AGED ABOUT 41 YEARS
R/AT OPP. SJM COLLEGE
HOLALKERE TOWN
CHITRADURGA -577501

...PETITIONER

(BY SRI. AJAY KADKOL T., ADVOCATE)

AND:

1. SMT. B. MANJULA
W/O RAGHAVENDRA SHETTY
AGED ABOUT 40 YEARS
2. SHREYA
D/O RAGHAVENDRA SHETTY
AGED ABOUT 09 YEARS
SINCE MINOR REP BY HER
MOTHER-NATURAL GUARDIAN
SMT. B. MANJULA - R-1

BOTH ARE R/AT NEAR ANIL KUMAR STORE
GOPALAPURA ROAD, CHITRADURGA-577501

...RESPONDENTS

(BY SRI. DEEPU B.M., ADVOCATE)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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THIS CRIMINAL PETITION IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER PASSED BY THE SPL. II ADDL. DISTRICT AND SESSIONS JUDGE, CHITRADURGA ON 07.04.2021 IN CRL.RP.NO.9/2019 AND ALSO THE ORDER PASSED BY THE HONBLE II ADDL. CIVIL JUDGE AND JMFC, CHITRADURGA IN CRL.MISC.NO.319/2018 DATED 24.12.2018 AND DISMISS THE INTERIM APPLICATION FILED BY THE RESPONDENTS U/S 23 OF PWDV ACT.

THIS PETITION, COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard learned counsel appearing for the petitioner and learned counsel appearing for the respondents.

2. This criminal petition is filed praying this Court to quash the order passed by the trial Court dated 07.04.2021 passed in Crl.R.P.No.9/2019 and also the order dated 24.12.2018 passed in Crl.Misc.No.319/2018 and prays this Court to dismiss the interim application filed by the respondents under Section 23 of the Protection of Women from Domestic Violence Act, 2005 ('PWDV Act' for short).

3. Learned counsel appearing for the petitioner would vehemently contend that this petitioner has now become



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handicap in view of the accident and he is unable to pay the maintenance as ordered by the Trial Court. The Trial Court having perused the material on record, passed an order invoking Section 23 of the PWDV Act partly allowing the interim application directing the respondent to pay monthly maintenance of Rs.3,000/- each per month to petitioner Nos.1 and 2 and the same is challenged before the Revisional Court in Crl.R.P.No.9/2019. The Revisional Court modified the same for an amount of Rs.2,500/- per month from the date of the revision petition. The same is challenged before this Court.

4. Learned counsel appearing for the petitioner would submit that without any material passed such an order and the petitioner herein is not in a position to pay the said amount. The counsel also would submit that without determining the capability of the petitioner, the direction issued is erroneous.

5. Learned counsel appearing for the respondents would submit that it is only an interim-maintenance and with regard to whether he is capable to pay the same or not is a matter of trial and evidence has to be adduced.



6. Having heard learned counsel appearing for the petitioner and also learned counsel appearing for the respondents, this Court sitting under Section 482 of Cr.P.C., cannot determine the same and the same has to be determined by the Trial Court. The records also disclose that criminal miscellaneous petition was filed in 2018 and revision was filed subsequently in 2019 and revision was also dismissed. However, Revisional Court modified the interim-maintenance reducing the same from Rs.3,000/- each per month to Rs.2,500/- each per month. When such reasoning is given by the Trial Court as well as the Revisional Court, the matter requires to be considered on merits with regard to the capacity to pay the amount and whether the petitioner is handicap and not in a position to pay the same is a matter of trial and merely considering a disability certificate which is produced before the Court, this Court cannot decide the same.

7. No doubt, learned counsel appearing for the petitioner produced the disability certificate, wherein permanent disability is shown as 75% and the same also to be considered by the Trial Court while considering the matter on



merits and not at this stage. Hence, no ground is made out to quash the order passed by the Trial Court which is modified by the Revisional Court. However, this Court can give direction to the Trial Court to dispose of the matter within four months taking note of the fact that matter is of the year 2018 and almost 8 years have been elapsed.

8. In view of the discussions made above, I pass the following:

ORDER

- (i) The petition is dismissed.
- (ii) The parties and their respective counsels are directed to assist the Trial Court in disposal of the matter within a time bound period of 4 months.
- (iii) The Registry is directed to communicate this order, forthwith to the Trial Court.
- (iv) Learned counsel for the petitioner and also learned counsel for the respondents are directed to produce a copy of this order before the Trial Court regarding time bound direction given to dispose of the matter within four months.



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- (v) In the meanwhile, the petitioner is directed to pay the interim-maintenance as ordered by the Trial Court and if any arrears, the same is ordered to be paid within a period of 1 month from today.

Sd/-
(H.P.SANDESH)
JUDGE

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List No.: 1 Sl No.: 11