

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**WEDNESDAY THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE M.S.K. JAISWAL

CRIMINAL REVISION CASE NO. 398 OF 2013

Between:

Racharla Prasanth Kumar ... Petitioner

V/s.

Racharla Babi Sarojini & Anr. ... Respondents

Counsel for the Petitioners : Sri Bolla Venkata Rama Rao

Counsel for the Respondents : Sri D.Narasimha Rao for
R-1
Public Prosecutor [AP] for
R-2

The court made the following : [order follows]

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ORDER:

This Criminal Revision is filed against the order dated 13/12/2012 passed in CRP.No. 90 of 2012 by the V Additional District and Sessions Judge [FTC] West Godavari at Eluru setting aside the order dated 06/09/2012 passed in MC.No. 5 of 2011 by the II-Additional Junior Civil Judge, Tadepalligudem.

2. The Revision Petitioner is the husband. The first respondent herein is the wife. The first respondent filed MC.No. 5 of 2011 for grant of maintenance amount of Rs.5,000/- per month. For the sake of convenience, the parties are referred to as petitioner [wife] and respondent [husband].

3. The case of the petitioner is that she married the respondent as per Christian rites at Rajahmundry and was blessed with two children. It is alleged that the respondent was addicted to bad vices and hence they started living separately. The petitioner claimed that the respondent has own house worth of

Rs.10,00,000/- and he is working in Salt Department. The petitioner is not having any means to maintain herself and hence she claimed maintenance of Rs.5,000/- per month.

4. Respondent denied that the petitioner is his wife. On the other hand, he married Sunitha of Madiki Agraharam village of East Godavari district on 10/05/1983. It was further contended that the petitioner is not his wife and hence she is not entitled for any maintenance.

5. During the course of enquiry, PWs 1 and 2 were examined and Exs.P1 to P3 marked, whereas the respondent himself was examined as RW-1 and no documents were marked.

6. On appreciation of oral and documentary evidence, the learned Magistrate by order dated 06/09/2012 dismissed the maintenance petition holding that the petitioner failed to prove that she is the legally wedded wife of the respondent.

7. Aggrieved by the said order, the petitioner preferred Criminal RP.No. 90 of 2012 on the file of V Additional District and Sessions Judge [FTC] West Godavari at Eluru.

8. On reappreciation of oral and documentary evidence, the learned V Additional Sessions Judge has reversed the finding of trial court and allowed the criminal revision petition by awarding maintenance of Rs.2,500/- per month to the petitioner-wife.

9. Aggrieved by the said order, the present criminal revision is filed.

10. It is the contention of the revision petitioner-husband that the appellate court has disposed of the matter without giving any opportunity to him and the order clearly shows that it was passed in post haste manner. Further more the petitioner in the maintenance case having failed to prove that she is the legally wedded wife of the revision petitioner is not entitled for any maintenance. The documents that were produced by the petitioner in maintenance case do not at all establish the existence of marital relationship between the parties. Hence, the learned appellate Judge erred in awarding maintenance.

11. On the other hand, the learned counsel for the respondent submits that the petitioner in maintenance case has produced Ex.P-1 marriage certificate, Ex.P-2 ration card and

Ex.P-3 Andhra Bank Passbook and also examined PW-2, who is the aunt of PW-1 in support of her case. Ex.P-2 ration card was obtained as long back as in 2006. The ration card issued by the Civil Supplies Department shows that their names were incorporated in ration card. The learned counsel further submits that the learned trial Magistrate has erred in appreciating the material documents in proper perspective and the same is liable to be set aside. The learned counsel further submits that absolutely there is no merit in the revision and the same is liable to be dismissed.

12. The point for consideration is whether there are any grounds to interfere with the order impugned in this revision.

13. **POINT** : Though the marital relationship is disputed but the documentary evidence more particularly Ex.P-1 marriage certificate amply demonstrates that the petitioner and respondent were living as husband and wife as long back as in 2006. Ex.P2 ration card was issued in 2006 in which the name of petitioner and respondent was incorporated. Ex.P-1 marriage certificate issued by the church would strengthen the contention of the petitioner-

wife. Prima facie, it shows that the relationship of the petitioner and respondent and the fact that they lived together was born out from the certificate Ex.P-1. The oral evidence particularly that of PW-2 clearly shows that the respondent is the husband of PW-1 with whom marriage was performed at Rajahmundry church about 30 years back. It is stated that they have two children. The respondent failed to produce any document or examine any witness to substantiate his contention that the marriage of petitioner was held with another person and that she is living with another person at Prattipadu. The petitioner has established that she has no means and that the respondent has neglected to maintain her. In the circumstances of the case, the petitioner has proved that herself and respondent were resident of same house and had been living together. No woman will live with a man unless they are married. The Revisional Court namely V Additional Sessions Judge has rightly appreciated the entire evidence in proper perspective and after perusing the same has held that the petitioner is entitled for maintenance and awarded maintenance of Rs.2,500/- per month. It is not disputed that respondent is working in the office of Salt Department. The petitioner claimed that

respondent had been earning Rs.10,000/- per month in the year 2011 when the maintenance case was filed. Taking this fact into consideration, an amount of Rs.2,500/- is just and reasonable and which is neither a pittance nor bounty. There are no merits in this revision and the revision is liable to be dismissed and is accordingly dismissed.

14. As a sequel, Miscellaneous Petitions if any, pending in this criminal revision shall stand closed.

JUSTICE M.S.K. JAISWAL

17/06/2015
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