

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1059 of 2008

JUDGMENT:

1. This revision is filed by the petitioner against the order dated 18.6.2008 passed by the Family Court, Guntur in M.C.No.4 of 2008.

2. Brief facts of the case are as follows:

The petitioner, who is the wife of 1<sup>st</sup> respondent, filed the above M.C. on her behalf and on behalf of her minor son for maintenance of Rs.3,000/- per month each. The petitioner stated that her marriage was performed with the 1<sup>st</sup> respondent on 8.11.1997 and out of their wedlock, a son was born. For some time, they lead happily marital life. Later, the 1<sup>st</sup> respondent started using abusive tongue against her. The 1<sup>st</sup> respondent addicted to vices. The 1<sup>st</sup> petitioner waited for a change, but finally on 25.9.2003, the 1<sup>st</sup> respondent picked up a quarrel and beat her indiscriminately and sent her out of the house and threatened her with dire consequences. Having no other go, she went her parents' house at Guntur. The 1<sup>st</sup> respondent did not change his attitude. The petitioner is suffering for food and shelter and her parents are poor and they are unable to maintain her and her child. The 1<sup>st</sup> respondent is getting Rs.15,200/- per month as mechanical investigator in Small Scale Industries and Development Department. He gets income out of fixed deposits made in his name in different banks.

3. The 1<sup>st</sup> respondent filed a counter denying all the allegations made against him. He stated in his counter as follows:

He got a job in SSI, Cuttack at the time of marriage and soon after marriage, they started matrimonial life in Cuttak. From the beginning, the petitioner used to tease and taunt him on the ground that he is no match to her in any respect i.e., social, economic and cultural. She used to treat him as animal. The petitioner had superiority complex. She used to insult him by reminding that his father was only a postmaster in the village. She used to make derogatory remarks about the condition of the 1<sup>st</sup> respondents' house at Tenali. The brothers of the petitioner also developed same tendency of insulting and teasing him. The petitioner used to carry tales to them about him. She used to show callousness in doing house hold work. When he questioned her about her attitude, the petitioner tried to assault him with a knife being used in kitchen. The petitioner refused to stay with the parents of the 1<sup>st</sup> respondent and she even refused to join the 1<sup>st</sup> respondent. In November, 2001 and December, 2001, the 1<sup>st</sup> respondent sent Rs.1,500/- to the petitioner by Money order. But she returned the same. On 7.4.2002, he came to know about the birth of a son. She did not allow him and his parents to see her son. She left the company of the 1<sup>st</sup> respondent and the 1<sup>st</sup> respondent requested the petitioner several times for re-union. But she did not join him. The 1<sup>st</sup> respondent is ready to maintain his son, if his custody is given to him. The petitioner is working as lecturer and she is enjoying the land given to her by her parents and therefore, she is not entitled to any maintenance.

4. During the course of trial, on behalf of the petitioner, she examined herself as P.W.1 and her mother as P.W.2. The 1<sup>st</sup> respondent examined himself as R.W.1 and he got marked Ex.R1 on his behalf.

5. On appreciation of oral and documentary evidence, the trial Court partly allowed the above M.C. directing the 1<sup>st</sup> respondent to pay Rs.1,500/- per month to the son of the petitioner from the date of the petition. Insofar as the petitioner is concerned, the above M.C. is dismissed. Aggrieved by the same, the petitioner filed this revision.

6. Heard and perused the material available on record.

7. The trial Court while allowing the application in part to the extent stated above, dismissed the claim of maintenance of the petitioner on the following grounds:

The evidence adduced by the 1<sup>st</sup> respondent establishes the fact that the petitioner herein is a working woman and she herself deserted the company of the 1<sup>st</sup> respondent. Further, it is evident that the petitioner filed a petition under Domestic Violence Act on the file of the V Additional Munsif Magistrate, Guntur., one month prior to her evidence in the above M.C. on 21.11.2007. She stated in that case that the 1<sup>st</sup> respondent deserted her on 13.7.2001 whereas in the present maintenance case, she stated that her husband deserted her on 25.9.2003. Further, the pleadings in the case filed under Domestic Violence Act are quite contrary to the pleadings raised in the maintenance case. Therefore, the trial Court disbelieved the case of the petitioner.

8. From the material on record, it is evident that the petitioner is a working woman and she is capable of maintaining herself. She did not adduce anything to disprove the version of the 1<sup>st</sup> respondent that the petitioner has sufficient means to maintain herself.

9. After perusing the order under revision, this Court is of the view that the observations made by the trial Court are in accordance with law and they do not warrant any interference by this Court.

10. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

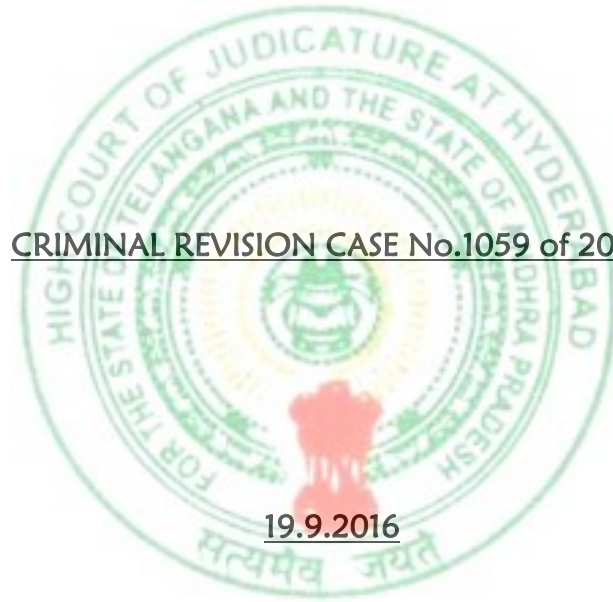
JUSTICE RAJA ELANGO

Dated:19<sup>th</sup> September, 2016

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19.9.2016

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