

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5747 OF 2015

JUDGMENT:

This Civil Revision Petition is filed under Article 227 of the Constitution of India by the petitioner in I.A.No.517 of 2015 in G.O.P.No.1 of 2015 against the respondents seeking to set aside the order, dated 15.10.2015 in said I.A.No.517 of 2015 on the file of the learned V Additional district Judge, Rayachoty by allowing the revision.

2. Heard the learned counsel for the petitioner. The respondents were served with notice but failed to attend hence taken as heard and perused the material on record.

3. The petitioner in I.A.No.517 of 2015 in G.O.P.No.1 of 2015 no other than the mother of the two minor children son and daughter aged 5 and 4 years respectively and the children are now in custody of the paternal grandparents-the respondents 1 and 2. The petitioner filed I.A.No.517 of 2015 before the trial Court seeking to grant interim custody of her two minor children till disposal of the main G.O.P.No.1 of 2015 but the same was dismissed by the trial Court holding that the petitioner brutally murdered her husband and along with some others facing accusation for the offence u/sec.302 of I.P.C. which is pending undisputedly and the petitioner is now in judicial custody and at this stage, the custody of the children cannot be granted in the interest of the minor children and their properties. The G.O.P. No.1 of 2015 is filed by the paternal grandparents of the minor children before the trial Court while the same is pending the petitioner filed petition for interim custody of the children but the same was ended in dismissal under the order impugned herein. The learned trial Judge dismissed the interim custody application by referring the expression of the Apex Court in **Roxann Sharma Vs. Arun Sharma**^[1] at para-8. In fact, that expression is on the definition of guardian for custody of children who

cannot remove the child out of the jurisdiction of the Court as per the provisions of the Guardians and Wards Act. The learned trial Judge rightly therefrom held the said citations have no application to the present facts even placed reliance by the unsuccessful petitioner-mother.

4. It is the submission that subsequent to the impugned order dated 15.10.2015, the petitioner was enlarged on regular bail. In fact, this Court by docket order dated 29.12.2015 directed the respondents-grandparents of the minor children to produce the children before this Court on any working day of the Court for permitting the petitioner to spend one hour with them in the Court premises and the same was availed by the petitioner undisputedly. In fact, in the factual scenario there are no grounds to interfere with the order impugned herein but to dispose the revision with some directions.

5. In the result, the Civil Revision Petition is disposed of directing the trial Court to dispose of the main petition (G.O.P.No.1 of 2015) expeditiously preferably within three months. The petitioner is permitted only to the extent of visiting in the Court premises at least once in a month on any working Saturday to spend with her children for one hour provided not to cause much inconvenience to the academics of the children. There is no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.01.2016
Vvr

[\[1\]](#) 2015(2) CCC 120 SC