

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1756 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, (for short, 'the CrPC'), is directed against the orders, dated 08.05.2017, of the learned Metropolitan Sessions Judge, Hyderabad, whereby the learned Sessions Judge while dismissing the said appeal, confirmed the order, dated 10.02.2017, of the learned III Additional Chief Metropolitan Magistrate, Hyderabad, passed in CrI.MP.No.3216 of 2016 in Cr.No.790 of 2016 of S.R. Nagar Police Station.

1.1 By the said orders, dated 10.02.2017, the learned Magistrate dismissed the afore-stated Miscellaneous Petition in CrI.MP.No.3216 of 2016 filed under Section 17 of the Immoral Traffic (Prevention) Act, by the mother of the victim girl seeking custody of the victim girl.

2. I have heard the submissions of *Sri Bethi Venkateswarlu*, learned counsel appearing for the petitioner, and of the learned Public Prosecutor (TG) representing the 1st respondent-State. The 2nd respondent, who is the victim girl, is stated to be not a necessary party.

3. The case of the petitioner, who is the mother of the victim girl (hereinafter, 'the petitioner') is brief is this: - 'Her daughter/the victim girl was falsely implicated by the police of S.R. Nagar in the case registered for the alleged offences punishable under Section 370-A(2) of IPC and Sections 3,4 and 5 of the Immoral Traffic (Prevention) Act. On production of the victim girl before the Court, on 03.11.2016, she was sent to Prajwala Rescue Home, Tukuguda, Ranga Reddy District, for rehabilitation and was directed to be lodged in the said Home until further orders. The petitioner is working as a maid servant and earning Rs.10,000/- per month. She is prepared to take the

custody of the victim girl and look after her welfare and interests. The victim girl used to work in cine field and earn Rs.15,000/- per month. Hence, the custody of the victim girl, the daughter of the petitioner, may be given to the petitioner.'

3.1 During the course of enquiry before the trial Court, the petitioner-PW1 reiterated in her evidence, her above stated pleaded case. PW2, the victim girl, testified that PW1 is her mother; she is unmarried; her father, Satyanarayana, died; she was earlier staying with her mother; she was falsely involved in the case; she learnt 'Maggam work' and 'embroidery work' and also 'playing kolatam' during her stay at the rescue Home; and, she wants to stay with her mother, the petitioner.' PW2 in her evidence requested for granting her custody to her mother and stated that she can feel safe and secure in the custody of her mother.

3.2 The learned Judge of the trial Court also called for the reports from the Home as well the District Probationary Officer, Rajahmundry. The petition of the petitioner seeking custody of the victim girl as well as her appeal were dismissed.

4. Learned counsel for the petitioner would submit as follows: - 'The orders of the Courts below are unjust and are against principles of natural justice. The report of the Prajwala home and of the Probationary Officer were not properly considered and appreciated. The learned Judges of the Courts below ought to have seen that the Probationary Officer is the proper and competent person under law to make an inquiry regarding the facts and circumstances of the affair, girl's personality & welfare, the environment which suits her, her family background and her present and future prospects. The Courts below ought to have seen that the petitioner being the mother is the most competent person to have the custody of the victim girl and take care of her well being and that she is also having good control over the victim girl and that the victim

girl is also willing to be under the care and custody of her mother. The victim girl is of tender age and the petitioner is looking for a suitable marriage alliance for the victim girl. The petitioner wants to provide good education to her child. If the girl is kept any longer in the rescue home, her reputation will be tarnished. Neither the Home nor the Probationary Officer gave negative reports warranting refusal of request for grant of custody of the victim girl to her mother. The victim girl never indulged in any unlawful activities. She was victimised as she was in the cine field. The courts below ought to have seen that as per the statement of the victim girl she had already learnt life skills and she was sufficiently rehabilitated and, therefore, there is no need to keep her any longer in the rescue home. The Probationary Officer stated that the house of the petitioner is situate in lower middle class area and that she is living with her elder daughter, Lakshmi Durga, in a rented [slab] building on a monthly rent of Rs.2,300/- and that their social and economic condition is poor and that family of the petitioner maintains cordial relationship with the neighbours and that the surrounding environment of the house is satisfactory and is congenial for the reformation and rehabilitation of the victim girl. However, the said aspects of the report are not properly appreciated by the Courts below. Hence the order impugned may be set aside and the custody of the victim girl may be granted to her mother.'

5. Now the point for determination is as to whether in the facts and circumstances of the case valid and sufficient grounds exist to grant custody of the victim girl to the petitioner, who is her mother.

6. I have gone through the entire material record including the report of the officer/s concerned of the Home and that of the Probationary Officer. On a plain perusal, the report of the Home reflects that Ms.Puja, Case worker-1 (Co-ordinator), and Mr.V. Mallesh, Case worker-2, (Assistant Co-ordinator), Rescue restoration programme, in their report, which was verified and

approved by their superiors of the Prajwala Home, stated that the mother is living on the earnings of the victim girl and that it is absolutely unsafe for the victim to be with her mother and that the petitioner even tried to bribe the investigators and that the victim girl is the bread winner of the family. They further stated that the victim girl has opted for prostitution on account of dire economic need and further recommended that the victim girl should be kept in the shelter till she is completely rehabilitated and is provided an alternate economic option and a job placement. As rightly held by the learned Judge of the trial Court, the Probationary Officer did not make a positive recommendation for handing over custody of the victim girl to her mother. The victim girl is staying in the home since 03.11.2016. She is learning some life skills in the home. Her continuation in the home at least for some more time may be of help to her in acquiring perfection in the skills she is now practising in the home. On attaining some perfection, the same may be helpful to her in making a decent living on her own, in future. The economic condition of her family is poor as per the report of the Probationary Officer. The learned Sessions Judge observed that the petitioner is not having control over the victim girl and, therefore, she allowed the victim girl to go all alone to a place far away from her native place. The learned Judge also observed in the impugned order that the victim girl is not in a position to survive on her own and that the mother is not in a position to maintain the victim girl.

7. Having regard to the afore-stated reasons and the observations in the orders of the Court below, this Court finds that the order of the Court of Session confirming the order of the trial Court does not warrant interference more particularly in the light of the final observation in the impugned order whereby an option was given to the petitioner to renew her request for custody of her daughter (victim girl) after expiry of six months from the date of the said order.

8. Viewed thus, this Court finds that the revision, which is devoid of merit, is liable for dismissal.

9. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

10.07.2017
Vjl

M. SEETHARAMA MURTI, J

