

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No. 3316 of 2016

ORDER:

This Criminal Revision Case, under Section 397 read with 401 of the Code of Criminal Procedure, 1973, (for short, 'the Code') is filed by the unsuccessful respondents/petitioners herein assailing the orders, dated 24.11.2016, of the learned XV Additional District & Sessions Judge, Nuzvid, passed in Criminal Appeal no.196 of 2016, whereby, the learned Additional Sessions Judge, while dismissing the said appeal, confirmed the orders, dated 20.06.2016, of the learned Judicial Magistrate of First Class, Tiruvuru, passed in D.V.C.no.1 of 2016.

2. I have heard the submissions of *Sri Sreenivasa Rao Velivela*, learned counsel for the petitioners, and of *Sri K.J.V.N.Pundareekakshudu*, learned counsel for the respondents 1 and 2 herein. I have perused the material record. The parties in this revision shall hereinafter be referred to as the petitioners and respondents as arrayed in this revision, for convenience and clarity.

3. Learned counsel for the petitioners would submit that the petitioners herein are respondents 1 and 2 in the DV Case; and that in the DV case, the trial Court having *inter alia* held that there is economic abuse by the petitioners of the respondents 1 and 2, directed the petitioners herein to pay Rs.3,000/- to the 1st respondent and Rs.4,000/- to the 2nd respondent herein on or before 10th of every month and that such maintenance is awarded from the date of the said order, dated 20.06.2016.

4. The Court below by the judgment impugned in this revision case confirmed the said orders of the learned Magistrate.

5. Aggrieved thereby, the petitioners are before this Court.

6. Learned counsel for the petitioners would submit as follows:

The orders of the trial Court are *ex parte* orders. In the circumstances stated in the grounds of revision, the petitioners herein could not participate in the trial proceedings. The husband of the 1st respondent died in the year 2005. The petitioners herein being the brother-in-law and mother-in-law of the 1st respondent are not liable under facts and law to pay any maintenance and that therefore, the order impugned is unsustainable and hence, the revision petitioners have got fair chances of success in the revision.

6.1 He, alternatively, submits that if the order impugned confirming the order of the trial Court is set aside and the matter is remitted to the trial Court for disposal afresh, in accordance with the procedure established by law, the petitioners herein are prepared to abide by any reasonable conditions that may be imposed by this Court.

7. Per contra, the learned counsel for the respondents 1 and 2 would submit as follows:

The family is having ancestral property. The 2nd respondent is presently aged nine years and is a school going student. Despite suffering the order, no amount is paid by the petitioners herein towards maintenance of respondents 1 and 2. Even though the husband of the 1st respondent died and a suit for partition was filed by the 2nd respondent, his share is not allotted to him by the petitioners herein. The suit was decreed. The respondents 1 and 2 are entitled to claim maintenance from the estate of the deceased husband of the 1st respondent and therefore, the petitioners herein are obliged to pay maintenance as ordered in the DV case. The respondents 1 and 2 herein are entitled to a share in the family properties. The contention that the petitioners are not liable to pay any maintenance is untenable.

7.1 Learned counsel for the respondents 1 and 2 would also submit that the respondents 1 and 2 would abide by the orders of this Court.

8. Having regard to the submissions, this Court is of the considered view that this revision case can be disposed of, at the stage of admission with appropriate directions.

9. In the result, the Criminal Revision Case is allowed and the impugned orders, dated 24.11.2016, of the learned XV Additional District & Sessions Judge, Nuzvid, passed in Criminal Appeal no.196 of 2016 confirming the orders, dated 20.06.2016, of the learned Judicial Magistrate of First Class, Tiruvuru, passed in D.V.C.no.1 of 2016, are set aside; and, the said DV Case is remitted to the trial Court for disposal afresh on merits and in strict accordance with the procedure established by law, subject, however to the condition that the petitioners herein shall deposit Rs.50,000/- to the credit of the above said DV case within four weeks from the date of receipt of a copy of this order. It is made clear that on such deposit, the respondents 1 and 2 herein are at liberty to withdraw the same by following the procedure established by law. It is needless to mention that on the failure of the petitioners herein to make the deposit as directed, the revision case shall stand dismissed and the orders impugned in this revision shall stand revived. Considering the fact that the DV case is sufficiently an old one, the trial Court shall make an endeavour to dispose of the DV Case, on its restoration, as expeditiously as possible and preferably within two months of such restoration.

Pending miscellaneous petitions, if any, in this Criminal Revision Case shall stand closed.

28.06.2017
RAR

M. SEETHARAMA MURTI, J

