

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2758 of 2015

JUDGMENT:

The present Criminal Revision Case is filed questioning the order dated 9.10.2015, in Criminal Appeal No.362 of 2015, which Criminal Appeal was preferred against the order dated 8.5.2015 in CrI.M.P.No.220 of 2015 in D.V.C. No.1 of 2015 on the file of XXI-Metropolitan Magistrate, Cyberabad at Medchal, Rangareddy District.

2. Criminal M.P.No.220 of 2015 was filed by the revision petitioners i.e., the wife child of the 1st respondent, requesting Order of Residence along with Protection. The learned XXI-Metropolitan Magistrate allowed the petition directing the respondent to provide shared accommodation to the petitioners in the house at Walchand Nagar, Pune, or to secure alternative accommodation to the petitioners at the same level for the residence and also ensuring protection of the petitioners. This order was challenged by the 1st respondent-husband. By Criminal Appeal No.362 of 2015, the learned Additional Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, R.R. District, by his order dated 9.10.2015, disposed it of modifying the order of the lower court directing the 1st respondent-husband to pay a monthly amount of Rs.10,000/- to the petitioners for securing alternative accommodation for them at the place of their choice i.e., either in Hyderabad or Walchand Nagar, Pune, from the date of passing final orders by the lower Court. This has been under challenge in the present Criminal Revision Case by the wife and the child.

3. Heard Sri Maroju Vinod Kumar, learned counsel for the petitioners and Sri Durga Prasad Sadan, learned counsel for the respondents 2 to 4.

4. The submission of the learned counsel for the petitioners is that, in fact, residence in Walchand Nagar, Pune, would be convenient as the 2nd petitioner is prosecuting studies in nearby school and on that ground wants to set aside the order passed by the lower Appellate Court and to restore the order of the trial Court.

5. *Per contra*, learned counsel for the respondents 2 to 4 would submit that the order does not warrant interference, and, in fact, the Court has given choice or option to the petitioners to settle either at Walchand Nagar or at Hyderabad, according to the choice of the petitioners, and only directed to pay Rs.10,000/- towards 'right of residence'. Certain other submissions have been made by both sides, but it is unnecessary to deal with them as they touch the main issue in D.V.C.

6. Admittedly, D.V.C. No. 1 of 2015 on the file of XXI-Metropolitan Magistrate, Cyberabad at Medchal, Rangareddy District is still pending. In fact, as per the statutory mandate, D.V.C. has to be disposed of within six months. The 1st respondent-husband in Crl. M.P. No.220 of 2015 is directed to pay a monthly amount of Rs.10,000/- to the petitioners towards separate residence, leaving option to the petitioners to stay either at Walchand Nagar or at the place of their choice. In fact, no infirmity is to be found in the order. Without entering into the arena of merits, touching right to residence

sought for by the petitioner in D.V.C., it is opined that it would be appropriate to dispose of the Criminal Revision Case directing the learned XXI-Metropolitan Magistrate, Cyberabad at Medchal, Rangareddy District, to dispose of D.V.C. itself so that the disputes between the parties be finally resolved touching the requests made in the D.V.C.

7. Accordingly, the Criminal Revision Case is dismissed, directing the learned XXI-Metropolitan Magistrate, Cyberabad at Medchal, Rangareddy District to dispose of D.V.C. No.1 of 2015 within three months from the date of receipt of a copy of the order, while maintaining the amount of Rs.10,000/- awarded by the lower Appellate Court till disposal of the D.V.C. However, it is made clear that D.V.C. No.1 of 2015 shall be disposed of uninfluenced by any of the observations of either the lower Appellate Court in Criminal Appeal No.362 of 2015 or the observations made, if any, in the present Revision. Both parties are directed to cooperate with the trial Court for disposal of D.V.C. itself.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

December 14, 2017.

gbs