

HON'BLE SRI JUSTICE P.KESHAHA RAO
CRIMINAL REVISION CASE No.2323 of 2014

ORDER :

Heard the learned counsel for the petitioner as well as the respondents 1 and 2

2. The present Criminal Revision Case is filed questioning the orders passed in M.C. No. 26/2012 dated 01.10.2014, on the file of the Court of Special Mobile Judicial First Class Magistrate, Kakinada, East Godavari District, granting maintenance of Rs.3,000/- and Rs.1,000/- per month to the respondents 1 and 2 respectively.

3. The facts in brief are that the 1st respondent and the petitioner fell in love with each other prior to the marriage and they lived as wife and husband and led conjugal life. On 02.01.2003, the petitioner married the 1st respondent at her house in presence of her elders, by exchanging the garlands. The petitioner tied Tali as per the Hindu rights and customs. Out of the wedlock they are blessed with the 2nd respondent on 04.03.2003, who was studying 4th class at the time of filing of the maintenance case. However, the attitude of the petitioner changed from 2003 and he was asking the 1st respondent that he will marry another girl as his mother and family members were not allowing the 1st respondent as their daughter-in-law. When the matter was placed before the elders, the petitioner was admonished along with his mother. Even then, the petitioner developed illicit intimacy with other ladies and stopped visiting the 1st respondent. When the 1st respondent insisted, the petitioner informed them that he married one lady by name Vani on 02.11.2003. In those circumstances, when she was totally neglected by the petitioner, she filed the maintenance case. The 1st respondent also stated that she does not have any independent source of income and she has no means to maintain herself

and the 2nd respondent. The petitioner is hail and healthy and working as Mechanic in A.P.S.R.T.C at Narsapur.

4. The respondent filed a counter denying the material allegations in the M.C. and contended, *inter alia* that the respondents 1 and 2 herein are not his wife and daughter. The petitioner never promised to marry the 1st respondent and he does not know their family. He never resided with the 1st respondent and there is no conjugal life. His marriage was settled with one Nagamani of Krishna District and it was performed on 02.11.2013 at Kanakadurga Bhavani Temple, Vijayawada and they were blessed with two children.

5. In order to prove her case, the 1st respondent examined herself as PW.1 apart from another witnesses as PW2 and marked Exbs.P.1 to P.4. The petitioner examined himself as RW-1 and examined his wife as RW-2. The learned Magistrate, after hearing the matter and analysing the evidence on record by orders dated 01.10.2014 directed the petitioner to pay a sum of Rs.3,000/- and Rs.1,000/- per month to the respondent 1 and 2 herein towards maintenance from the date of the petition. Aggrieved by the same, the present Criminal Revision Case is filed.

6. The learned counsel appearing for the petitioner, would contend that the respondents 1 and 2 herein are not the wife and daughter of the Petitioner. He never led any conjugal life with the 1st respondent. In fact he married one Nagamani of Krishna District on 02.11.2013 and they were blessed with two children. In fact, when the respondent No.1 filed D.V.C. 7 of 2013, there is a finding that the 1st respondent failed to prove that she is legally wedded wife of the petitioner by producing cogent and corroborative evidence.

7. The learned counsel appearing for the respondents 1 and 2, supported the impugned orders and brought to the notice of this Court that

the 1st respondent filed a photograph with negative, showing that she is legally wedded life of the petitioner, the birth certificate marked as Ex.B.2 , the date of birth certificate issued to the 2nd respondent, by the Commissioner, Kakinada Municipality, showing the petitioner has her father Ex.B-3, voter I.D. Card also established that the petitioner is the husband of the 1st respondent and Ex.B-4 is a record sheet issued by the Headmaster S.V.S. Public School, Kakinada, showing the petitioner as father of the 2nd respondent.

8. Having heard both the counsel and from the perusal of the material on record, it is revealed that the specific case of the 1st respondent is that she is the legally wedded wife of the petitioner. Their marriage was performed on 02.01.2003 in presence of the elders by exchanging garlands and the petitioner tied Tali as per the Hindu rites and customs. As per the wedlock they were blessed with 2nd respondent. To further substantiate her contention, she examined one Krishna as PW.2, who categorically deposed that the marriage with the petitioner was performed and out of the wedlock they were blessed with the 2nd respondent. Apart from the same, the documentary evidence produced by the 1st respondent in the form of Exb.Nos.1 to 4 as stated supra, it is established that the 1st respondent is the legally wedded wife of the petitioner and the 2nd respondent is their daughter. Though the petitioner has taken the specific stand, denying the relationship with the respondents 1 and 2 and also that he was married to one Ms Nagamani of Krishna District on 02.11.2013, he failed to take appropriate steps in the form of proving the paternity of the 2nd respondent, to under go the DNA test. In the back drop of these facts when the petitioner has proved the factum of marriage through Exbs.B.1 to B.4, the role of assertion of the petitioner is not sufficient and will not replace the documentary evidence produced by the respondent No.1.

Since the petitioner has not taken the required steps to prove his contention, an adverse interference has to be drawn against him.

9. Be that as it may, when the petitioner has failed to prove his case, this Court is of the opinion that there is no irregularity and illegality in the order passed by the learned Magistrate. Therefore, there are no merits in the Criminal Revision Case and the same is liable to be dismissed and accordingly the Criminal Revision Case is dismissed.

As a sequel to the dismissal of the main case, the interlocutory applications, if any, shall also stand dismissed.

Dated: 14.09.2018

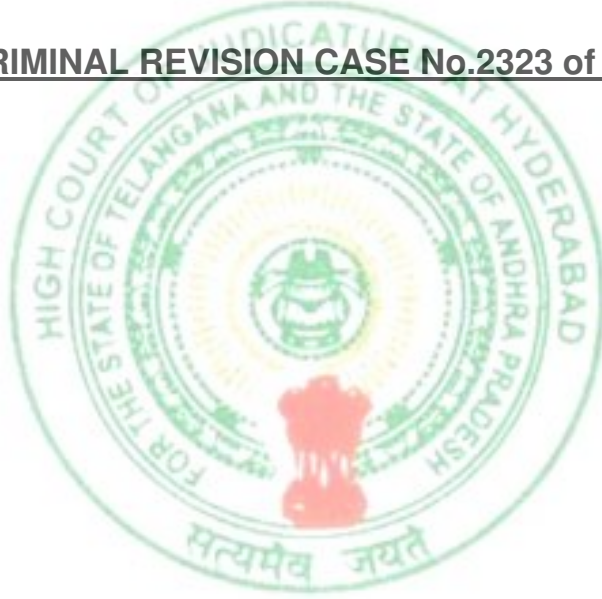
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P. KESHA RAO, J



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