

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY-TWO**

**PRESENT
THE HONOURABLE Dr. JUSTICE SHAMEEM AKTHER**

CRIMINAL REVISION CASE NO: 1511 OF 2008

Criminal Revision Case under Section 397 & 401 Cr.P.C 1973, against the Order dated 21/08/2008 in MC No.2 of 2007 on the file of the Court of the Judge, Family Court, Hyderabad.

Between:

K.Janardhan, S/o Sathaiah, Gumasta in Fertilizers Shop R/o Opp: Govt. Hospital, Mahaboobabad, Warangal.

...PETITIONER (RESPONDENT)

AND

1. The State of A.P., Rep. by Public Prosecutor, High Court, Hyderabad.
 2. K. Pushpavathi, W/o Janardhan, Household
 3. K. Saritha, D/o Janardhan, Household
 4. K. Swathi, D/o Janardhan, Household
- Respondent Nos.2 to 4 are R/o H.No.5-1-59/1, New Bazaar, Mahaboobabad, Warangal District.

...RESPONDENTS (RESPONDENTS)

CRLRCMP. NO: 2065 OF 2008

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of grounds of Criminal Revision Case, the High Court may be pleased to grant stay of all further proceedings in M.C.No.2 of 2007, dated 21.08.0208 on the file of the Judge, Family Court, Hyderabad, pending disposal of the CrI.R.C.

This petition coming on for hearing, upon perusing the Memorandum of grounds of Criminal Revision Case and upon hearing the arguments of Sri.N.Rajeshwar Rao, Advocate for the petitioner and of the Public Prosecutor (TG) on behalf of the Respondent No.1 and of Sri P.Vamsheedhar Reddy, Advocate for the Respondent No.2 and Sri R.A.Achutharam, Advocate not present.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.1511 of 2008

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is filed by the petitioner/husband aggrieved by the order, dated 21.08.2008, passed in M.C.No.2 of 2007 by the Judge, Family Court, Hyderabad, whereby, the subject M.C. filed by the respondent Nos.2 to 4/wife and children, under Section 125 Cr.P.C., was allowed granting maintenance at Rs.4,500/- per month to respondent Nos.2 to 4 herein (@ Rs.1,500/- each).

2. Heard Ms.Sridevi Keerthi, learned counsel, representing Sri N.Rajeshwar Rao, learned counsel for the petitioner/husband, learned Assistant Public Prosecutor appearing for the respondent No.1/State, Ms.P.B.A.Ratnamala, learned counsel for the unofficial respondent Nos.2 to 4/wife and children, and perused the record.

3. The facts of the case, in brief, are that the petitioner and the respondent No.2 herein are husband and wife. During their wedlock, respondent Nos.3 and 4 were born. Both the couple led marital life for ten years. Soon thereafter, matrimonial

disputes cropped up them and the respondent No.2 filed a criminal case in Crime No.92 of 2002 with Police, Mahaboobabad, under Sections 143, 324, 445 and 506 of IPC alleging harassment against the petitioner. The respondent No.2 also filed another criminal case in Crime No.97 of 2005 alleging misbehavior and harassment against the petitioner. The petitioner/husband filed O.P.No.35 of 2003 before the Senior Civil Judge, Mahabubabad, against the respondent No.2 for divorce. Respondent Nos.3 and 4 are residing with respondent No.2. Since the respondent Nos.2 to 4 are unable to maintain themselves, they filed the subject M.C. The Court below, having examined the oral and documentary evidence on record, vide the impugned order, dated 21.08.2008, granted maintenance of Rs.4,500/- per month to respondent Nos.2 to 4, i.e., @ Rs.1,500/- each. Aggrieved by the same, the petitioner filed the present revision case.

4. Learned counsel for the petitioner/husband would submit that the respondent No.2 compelled the petitioner to live separately. The petitioner acquired a residential house at Mahaboobabad and the said house is occupied by respondent Nos.2 to 4. Further, the petitioner, as a dutiful father, deposited

an amount of Rs.2.00 lakhs towards marriage of respondent Nos.3 and 4 and also kept an amount of Rs.1.50 lakhs in Fixed Deposits in their name. The respondent No.2 is an adamant woman, harassed the petitioner physically and mentally and made his life miserable. Further, the respondent No.2, at one point of time, tried to kill the petitioner by mixing poison in the food. Hence, the petitioner was compelled to live separately. Therefore, the Court below ought not have granted any maintenance. The petitioner sustained loss in the business and presently, he is working as a clerk and earning salary of Rs.1,000/- per month. He has no substantial income to pay such a huge amount i.e., Rs.4,500/- per month as maintenance to the respondent Nos.2 to 4 and ultimately prayed to allow the revision as prayed for.

5. On the other hand, the learned counsel for respondent Nos.2 to 4 would submit that the petitioner has substantial income to pay the maintenance granted by the Court below. The Court below by taking into consideration the entire material placed on record granted maintenance at the rate of Rs.4,500/- per month in total, in favour of the respondent Nos.2 to 4 from the date of petition, which is justified. The allegation that the

respondent No.2 compelled the petitioner to live separately is incorrect. The petitioner neglected the respondent Nos.2 to 4 due to his illegal contact with another woman. There is no illegality or perversity in the impugned order, so as to interfere with the same and ultimately, prayed to dismiss the revision case.

6. In view of the rival submissions made by both sides, the point that arises for determination in this revision case is as follows:

"Whether the maintenance granted by the Court below at the rate of Rs.4,500/- per month in total, to the respondent Nos.2 to 4 is excess as contended by the petitioner?"

7. Here, it is apt to state that Sections 397 to 401 of Cr.P.C., confer only limited power on the Revisional Court to the extent of satisfying about the legality, propriety or regularity of the proceedings or orders of the lower Court and not to act like appellate Court for other purposes, including the recording of new findings of fact on fresh appraisal of evidence. Revisional Jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the

provisions of law, the findings recorded are based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely.

8. In the instant case, there is evidence of PWs.1 to 3 demonstrating that the respondent Nos.3 and 4 are the children of the petitioner and respondent No.2. The petitioner and respondent No.2 are living separately from a considerable period. The petitioner has provided residential accommodation to respondent Nos.2 to 4. However, the respondent Nos.2 to 4 have no income to maintain themselves. While the respondent No.2 filed a criminal case vide Crime No.92 of 2002 with Police, Mahabubabad, under Sections 143, 324, 445 and 506 of IPC, alleging harassment against the petitioner and also another criminal case in Crime No.97 of 2005, the petitioner filed O.P.No.35 of 2003 before the Senior Civil Judge, Mahabubabad, against the respondent No.2 for divorce. There is evidence of cruelty meted out by the respondent No.2 in the hands of the petitioner. Hence, there is justification on the part of the respondent No.2 in living separately along with her children and the same cannot be found fault with. Further, it is the bounden duty of the petitioner to maintain the respondent Nos.2 to 4,

who are his wife and children, as they have no source of income to make a living. The Court below, having considered the whole issue, justified in granting maintenance of Rs.1,500/- each to respondent Nos.2 to 4, which, in any event, cannot held to be excessive. There is no perversity or patent illegality in the impugned order, so as to interfere with the same. The Court below has acted well within its jurisdiction. Therefore, there are no circumstances to vary the impugned order, dated 21.08.2008. The petitioner is not entitled for the relief sought in this revision. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

9. In the result, the Criminal Revision Case is dismissed confirming the order, dated 21.08.2008, passed in M.C.No.2 of 2007 by the Judge, Family Court, Hyderabad.

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

Sd/-CH.VENKATESWARULU
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Senior Civil Judge, Mahaboobabad, Warangal.
2. The Judge, Family Court, Hyderabad, T.G. **(with records)**
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
4. The Station House Officer, Mahaboobabad Police Station, Warangal.
5. One CC to Sri N.Rajeshwar Rao, Advocate (OPUC)
6. One CC to Sri P.Vamsheedhar Reddy, Advocate (OPUC)
7. One CC to Sri R.A.Achuthanand, Advocate (OPUC)
8. Two CD Copies
9. One Spare Copy

KJ. Kx, Wk

HIGH COURT

DATED:01/04/2022



ORDER

CRLRC.No.1511 of 2008

CRL.R.C. IS DISMISSED.

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13/6/22
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