

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

CRIMINAL REVISION CASE No.141 of 2020

ORDER :

This revision is arising out of the orders in CrI.A.No.495 of 2017, dated 03.01.2020 on the file of IV Additional Metropolitan Sessions Judge, Hyderabad, which is arising out of the orders dated 20.03.2017 in CrI.M.P.No.411 of 2017 in D.V.C.No.127 of 2016 on the file of IV Metropolitan Magistrate, Hyderabad.

2. For the sake of convenience, the parties are referred to as arrayed in the D.V.C.

3. Initially, D.V.C.No.127 of 2016 was filed by the petitioner against the respondents, before the IV Metropolitan Magistrate (Traffic Mobile Court), Hyderabad. In that DVC, an interlocutory application i.e. CrI.M.P.No.411 of 2017 was also filed seeking to direct respondent No.1/husband to activate her health card bearing No.HE0012290/03, vide Employee I.D.No.0933187. It is the contention of the petitioner that respondent No.1 and his parents i.e. respondent Nos.2 and 3, have committed acts of domestic violence against her. It is her further contention that she was

diagnosed with breast cancer in the month of December 2015, for which, she underwent surgery and is undergoing Chemotherapy regularly. Though the parents of petitioner incurred major part of expenses for her treatment, her husband i.e. respondent No.1, who is a Government servant and who is having the facility of health card of Indo American Cancer hospital, has de-activated her health card with the sole intention of making her suffer mentally and monetarily. Therefore, prayed the Court to direct respondent No.1 to activate her health card.

4. A detailed counter was filed by respondent No.1/husband contending that the petitioner has suppressed the fact of her suffering with breast cancer and got married to him and also contended that after the pronouncement of divorce, the petitioner has been liberated from the wedlock and that the petitioner has no status of wife, and therefore, in order to avoid further complications, he de-activated the health card. Accordingly, he prayed to dismiss the petition with exemplary costs.

5. The trial Court has allowed Crl.M.P.No.411 of 2017 on the ground that the petitioner is suffering with serious disease and being the husband, it is for respondent No.1 to take care of her, as the issue of divorce is in dispute.

6. Being aggrieved by the said orders, respondent No.1/husband has preferred appeal vide Crl.A.No.495 of 2017 before the IV Additional Metropolitan Sessions Judge, Hyderabad. The appellate Court has dismissed the appeal by order dated 03.01.2020, confirming the orders of trial Court in Crl.M.P.No.411 of 2017. However, the appellate Court has given a specific direction to the trial Court to dispose of DVC.No.127 of 2016 within three months from the date of said order i.e. 03.01.2020.

7. Being aggrieved of the aforesaid orders, the respondents in the DVC have preferred the present revision case.

8. Heard both sides and perused the record.

9. It is the specific contention of the learned counsel for revision petitioners that the 1st respondent/wife being a

Government servant, is also having the facility of health card and she was using the said card for her treatment at Indo American hospital, and therefore, using the health card of the revision petitioner No.1 does not arise. It is contended that the DVC and Crl.M.P.No.411 of 2017 have been filed with the sole intention of harassing the petitioners herein. The further contention of learned counsel for petitioners is that petitioner No.1 has pronounced Talaq/divorce to respondent No.1 on 01.05.2016, and therefore, he is not obligated to activate the health card of respondent No.1.

10. Admittedly, though this revision is filed in the year 2020, no stay is granted by this Court and inspite of specific directions by the appellate Court to the IV Metropolitan Magistrate, Hyderabad to dispose of the DVC within three months from the date of orders in appeal i.e. 03.01.2020, it is reported to this Court by the learned counsel for the revision petitioners that the DVC is still pending.

11. Whether petitioner No.1 herein has pronounced Talaq against respondent No.1 or not, is a fact to be determined by the trial Court after completion of trial in DVC.No.127 of 2016.

Therefore, this Court is of the considered view that without going into merits of the matter, it would be sufficient if some more time is granted to the trial Court to dispose of the DVC.

12. Accordingly, this revision case is disposed of directing the IV Metropolitan Magistrate, Hyderabad, to dispose of D.V.C.No.127 of 2016 within one month from the date of communication of this order, by listing the matter on day-to-day basis. Both the parties to the DVC shall co-operate with the trial Court for disposal of DVC within the time stipulated.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 09.01.2023

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