

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

**MONDAY, THE SIXTH DAY OF MARCH  
TWO THOUSAND AND TWENTY THREE**

**PRESENT**

**THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI**

**CRIMINAL REVISION CASE NO: 283 & 505 OF 2017**

**CRIMINAL REVISION CASE NO: 283 OF 2017**

Criminal Revision filed under Section 397 and 401 of Cr.P.C aggrieved by the order dated 17-12-2016 passed in M.C.N45 of 2014 by the learned Judge, Family Court, Warangal.

**Between:**

NALLA AILAIHAH YADAV, S/o late Pentaiah Yadav, aged about 34 years, R/o H.No.2-52, Anajipuram Village, Bongir Mandal, Nalgonda District, now in Yadadri District. **...PETITIONER/RESPONDENT**

**AND**

1. SMT.NALLA JYOSTNA @ BINDU, W/o Nalla Ailaiah Yadav, aged about 27 years. resident of Rampeta, H/o Kadipikonda Village, Hanamkonda Mandal, Warangal District.
2. Nalla Mahesh, S/o Nalla Ailaiah Yadav, aged about 5 years, residents of Rampeta, H/o Kadipikonda Village, Hanamkonda Mandal, Warangal District

(RESPONDENTS 2 and 3 being minors, rep. by their mother and natural guardian, petitioner No.1).

3. Nalla Laddu (nick name, not yet named),, S/o Nalla Ailaiah Yadav, aged about 3 years. (Respondents 2 and 3 being minors, rep. by their mother and natural guardian, petitioner No.1) residents of Rampeta, H/o Kadipikonda Village, Hanamkonda Mandal, Warangal District. **...RESPONDENTS/PETITIONERS**
4. State of Telangana,, rep.by Public Prosecutor, High Court at Hyderabad.

**...RESPONDENT**

**CRLRCMP. NO: 449 OF 2017**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings pursuant to the order dated 17-12-2016 passed in M.C.No. 45 of 2014 by the learned Judge, Family Court, Warangal,

**Counsel for the Petitioners: SRI. PENUMAKA VENKATA RAO (Not present)**

**Counsel for the Respondent Nos1, 2 & 3: AJAY KUMAR MADISETTY**

**Counsel for the Respondent No.4: PUBLIC PROSECUTOR**

**CRIMINAL REVISION CASE NO: 505 OF 2017**

Criminal Revision Case filed under Section 397 and 401 of CrPC against the order dated 17.12.2016 passed in M.C. No. 45 of 2014 on the file of the court of the Judge, Family Court, Warangal.

**Between:**

1. SMT.NALLA JYOSHNA @ BINDU, W/o. Nalla Ailaiah Yadav, aged about 27 years Occ.House wife, R/o. Rampea, H/o. Kadipikonda village Hanamkonda Mandal, Warangal District.
2. Nalla Mahesh,, S/o. Nalla Ailaiah yadav Aged about 5 years, Occ. Nil
3. Nalla Laddu (nick name, not yet named), S/o. Nalla Ailaiah yadav Aged about 1 year, Occ. Nil

Petitioners 2 and 3 are minors, being represented By their natural guardian / mother i.e. petitioner no.1 R/o. Rampea, H/o. Kadipikonda village Hanamkonda Mandal, Warangal District.

**...PETITIONERS/PETITIONERS IN MC**

**AND**

1. THE STATE OF TELANGANA, rep. by Public Prosecutor, High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh
2. Nalla Ailaiah Yadav, S/o. Late Pentaiah Yadav, aged 33 years Occ. Tech II Electrical, R/o. H No. 2-52, Anajipuram Village, Bongir Mandal Nalgonda District now in Yadadri District

**...RESPONDENT/PETITIONER**

**Counsel for the Petitioner: SRI. AJAY KUMAR MADISETTY**

**Counsel for the Respondent No.1: PUBLIC PROSECUTOR**

**Counsel for the Respondent No.2: PENUMAKA VENKATA RAO(Not Present)**

**THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

**CRIMINAL REVISION CASE Nos.283 & 505 of 2017**

**COMMON ORDER:**

Challenging the order, dated 17.12.2016 passed in M.C.No.45 of 2014 by the learned Judge, Family Court, Warangal granting monthly maintenance of Rs.5,000/- to the wife and Rs.2,000/- each to the minor children apart from granting Rs.10,000/- towards litigation expenses, the husband filed Crl.R.C.No.283 of 2017 seeking to set aside the order and the wife and minor children filed Crl.R.C.No.505 of 2017 seeking enhancement of maintenance.

2. Heard the learned counsel for the petitioners (wife and minor children) in Crl.R.C.No.505 of 2017 and the respondent Nos.1 to 3 (wife and minor children) in Crl.R.C.No.283 of 2017 and perused the record.

3. Despite listing these matters under the caption "for orders", there is no representation for the petitioner (husband) in Crl.R.C.No.283 of 2017 and respondent No.2 (husband) in Crl.R.C.No.505 of 2017.

4. For the sake of convenience, the parties are hereinafter, referred to as arrayed in the subject M.C.No.45 of 2014.

5. The facts of the case in brief, are as follows:

The petitioner No.1 and the respondent are legally wedded wife and husband. During their wedlock, they are blessed with the petitioner Nos.2 and 3. Though the respondent was harassing the petitioner No.1 right from the inception of the marriage, the petitioner No.1 suffered the same with a hope that there would be change in the attitude of the respondent. When the petitioner No.1 was carrying third month pregnancy, the respondent, his sister and brother-in-law compelled her to go for abortion, for which the petitioner No.1 refused. Later, she underwent Tubectomy operation and joined the company of the respondent at Hyderabad. The respondent continued the harassment and on 14.12.2013, he beat her indiscriminately demanding additional dowry of Rs.1.00 crore and again on 17.12.2013, he beat the petitioner No.1. When petitioner No.1 informed the same to her parents, her parents took her to Railway Hospital and a complaint was lodged with Begumpet Mahila Police Station on 17.12.2013. Later, the respondent pleaded guilty and he was imposed with fine. Later, at the instance of her parents and village elders, she joined conjugal society of the respondent on 30.12.2013. But again, she was subjected to harassment and was beaten and was necked out from her matrimonial home along with her children.

Subsequently, the petitioner No.1 filed a private complaint for the offences under Section 498A of IPC and Sections 3 and 4 of Dowry Prohibition Act. Basing on which, Crime No.97 of 2014 of Madikonda Police Station has been registered. The petitioner No.1 has been undergoing treatment for the last six months and staying with her parents along with her children. The respondent is getting Rs.33,000/- per month towards salary and he has also got immovable properties in an extent of Rs.2.20 guntas and a residential house and in sharp contrast the petitioners are living a pathetic life without any source of income and accordingly claimed maintenance of Rs.8,000/- per month each to petitioners Nos.1 to 3 for their maintenance. The respondent filed counter denying the averments made by the petitioner No.1. It is the case of the respondent that he never harassed the petitioner No.1 demanding additional dowry of Rs.1.00 crore. Since the petitioner No.1 hails from a poor family, he married her without any dowry. Right from the date of marriage, the petitioner No.1 developed some sort of aversion towards him and she does not have any respect towards him. The petitioner No.1 never cared to fulfill her obligations as a wife and used to torture the respondent to take a rented house and reside with her away from the other family members. Several times, the petitioner No.1 threatened the respondent that she

would commit suicide, if she fails to dance to her tunes. The respondent tolerated the conduct and behaviour of petitioner No.1 with a hope that she would change. In fact, the father of petitioner No.1 and her maternal uncle beat the respondent and later foisted a criminal case in STC No.3497 of 2013 and on the intervention of the elders, the case was settled. On several occasions, the respondent approached petitioner No.1 to join him back, but she bluntly refused and threatened the respondent with dire consequences. Vexed with her attitude, the respondent filed O.P.No.7 of 2014 on the file of Senior Civil Judge, Bhongir, seeking restitution of conjugal rights, but, however, the petitioner No.1 did not choose to appear in the said case and in turn she filed a false case in Crime No.97 of 2014 of Madikonda Police Station. In fact, the respondent has got employment on compassionate grounds and he is under the obligation to perform the marriage of his younger sister, provide good education to his brother and fulfill other responsibilities of the family. The respondent incurred debt to a tune of Rs.10,00,000/- to perform the marriage of his sister. The petitioner No.1 is a professional tailor with vast experience and she got her own tailoring shop and earning Rs.20,000/- per month, which is sufficient for her and for her children and as such, the petition is liable to be dismissed.

6. The Court below after adverting to the averments of both the parties and after considering the submissions made on their behalf granted monthly maintenance @ Rs.5,000/- per month to petitioner No.1 and Rs.2,000/- each to petitioner Nos.2 and 3, totaling to Rs.9,000/- per month from the date of petition. The respondent is also directed to pay a sum of Rs.10,000/- towards litigation expenses. Aggrieved by the same, the respondent filed Crl.R.C.No.283 of 2017 and the petitioners filed Crl.R.C.No.505 of 2017.

7. Learned counsel for the petitioners in Crl.R.C.No.505 of 2017 and respondent Nos.1 to 3 in Crl.R.C.No.283 of 2017/wife and minor children would submit that the monthly maintenance of Rs.5,000/- to petitioner No.1 and Rs.2,000/- each granted to the petitioner Nos.2 and 3 is very meager in view of the present standard of living. It is the moral duty of the respondent to maintain the petitioner Nos.1 to 3. In the present situation of escalation of price index of essential commodities, raising prices of transportation, a person cannot live with a meager amount of Rs.5,000/- per month. Further, the petitioner Nos.2 and 3 are school going children and they need amount for school fees and other educational expenses. In any event, Rs.2,000/- each to

petitioner Nos.2 and 3 would not be sufficient to take care of their necessities. The respondent is a Government employee working in South Central Railways and he is getting a gross salary of Rs.70,000/- per month. It is the sacrosanct duty to render financial support to the wife and children even if the respondent is required to earn money by doing physical labour, if he is able bodied, there is no escape route, unless there is an order from the Court that the wife is not entitled to get maintenance from her husband on any legally permissible grounds. The Court below erred in granting meager monthly maintenance of Rs.5,000/- to the petitioner No.1 and Rs.2,000/- each to the petitioner Nos.2 and 3 and ultimately prayed to enhance the maintenance as sought for.

8. Admittedly, the petitioner No.1 and respondent are the legally wedded wife and husband and respondent Nos.2 and 3 are their legitimate children. Disputes cropped up between the couple and it is stated that the petitioner No.1 was necked out from her matrimonial home and thereafter, she is residing at her parents' house along with petitioner Nos.2 and 3/minor children. It is the case of the petitioner No.1 that the respondent is a Central Government employee working in South Central Railways and has

sufficient means to pay maintenance to her and her children. Contrary to this, it is the case of the respondent that the petitioner No.1 is Tailor by profession and she has her own tailoring shop and earning Rs.20,000/- per month, which is sufficient to maintain herself and her children. The Court below, after adverting to the submissions of both sides, held that the petitioner No.1 was not even spared when she was pregnant and she was compelled to go for abortion; the respondent continued the harassment and beat petitioner No.1; kicking her at her private parts knowing pretty well that she had sutures on her private parts on the occasion of delivery of second child; for any tradition bound Hindu wife, smooth married life is always priority and she cannot sacrifice for petty issues. It is clear from the conduct of respondent paying fine in the STC case that he played fraud; the averments made by the respondent cannot be taken at its face value, the respondent cannot be permitted to take advantage of his own act of driving the petitioner No.1 out of her matrimonial house and conversely contend that the petitioner No.1 deserted him and as such she is not entitled for maintenance; the respondent does not even know what his children are doing and whether they are attending school or not and he never bothered about the welfare of his children; the object of Section 125 Cr.P.C. is to provide a summary remedy for

providing maintenance and for preventing vagrancy; it is for the husband to show that he has no sufficient means to discharge his obligation and that he did not neglect or refuse to maintain his wife; in the absence of any evidence produced by the respondent, his assertion that the petitioner No.1 has got income cannot be accepted; the evidence available on record clearly establishes that the petitioners are unable to maintain themselves and the respondent having sufficient means, refused and neglected the petitioners and holding thus, granted monthly maintenance of Rs.5,000/- to petitioner No.1 and Rs.2,000/- each to petitioner Nos.2 and 3 apart from Rs.10,000/- towards litigation expenses. This Court is in agreement with the findings recorded by the Court below that the respondent having sufficient means to maintain petitioner Nos.1 to 3, neglected to maintain them and as such, the petitioner Nos.1 to 3 are entitled for maintenance. In a proceeding of this nature, the husband cannot take subterfuges to deprive the wife of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a situation is not to be created where she is compelled to resign to her fate and think of life "dust unto dust". It is totally

impermissible. As held by the Court below, it is the sacrosanct duty of every husband to maintain his wife and children, even if he is required to earn money by doing physical labour, if he is able bodied. Section 125 Cr.P.C. was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home for the reasons provided in the provision, so that some sort of arrangements can be made by the Court and she can sustain herself and also her children if they are with her.

9. As regards the enhancement of compensation sought by the petitioner Nos.1 to 3 is concerned, this Court is of the view that in the present day cost of living, petitioner No.1 cannot maintain herself with a meager amount of Rs.5,000/- per month and petitioner Nos.2 and 3, being the school going children cannot meet their educational and other expenses with a meager amount of Rs.2,000/- per month each granted by the Court below. Keeping in view of the present standard of living, cost of educational expenses, escalation in the price index, Rs.5,000/- per month is not even sufficient to fulfil the bare necessities of petitioner No.1 and the bare educational necessities of petitioner Nos.2 and 3. The respondent is set to be Central Government employee and earning Rs.70,000/- per month. In view of the

totality of the circumstances, this Court deems it appropriate to enhance the monthly maintenance payable to petitioner No.1 from Rs.5,000/- to Rs.10,000/- and monthly maintenance payable to petitioner Nos.2 and 3 from Rs.2,000/- to Rs.5,000/- each, which, in the considered opinion of this Court would subserve the ends of justice.

10. Accordingly, CrI.R.C.No.283 of 2017 filed by the husband is dismissed being devoid of merit and CrI.R.C.No.505 of 2017 filed by the wife is partly allowed to the extent indicated above.

Miscellaneous petitions pending, if any, shall stand closed.

Sd/- K.SHYLESHI  
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

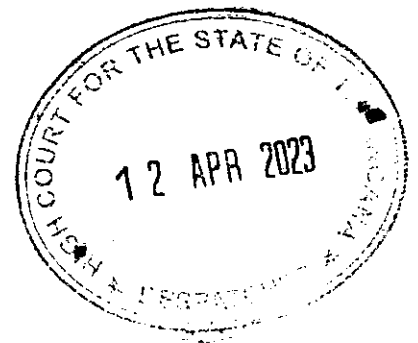
1. The Judge, Family Court, Warangal.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad (OUT).
3. One CC to SRI. PENUMAKA VENKATA RAO, Advocate [OPUC]
4. One CC to SRI. AJAY KUMAR MADISETTY, Advocate [OPUC]
5. Two CD Copies

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HIGH COURT  
DATED:06/03/2023

**ORDER**

Crl. R.C NO: 283 OF 2017  
&  
Crl. R.C NO 505 OF 2017



Crl. R.C No. 283 of 2017 is dismissed  
And  
Cr. R. C. No. 505 of 2017 is partly allowed

*[Handwritten signature]*  
02/04/2023