

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**WEDNESDAY, THE EIGHTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

**:PRESENT:
THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL**

CRIMINAL REVISION CASE NO: 863 OF 2012

Criminal Revision Case under Sections 397 & 401 of Cr.P.C. against the Order dated 02-05-2012 made in M.C.No.199 of 2008 on the file of the Court of the Addl. Metropolitan Sessions Judge-Spl. Judge for the trial of JHCBB Case-cum-Addl. Family Court-cum-XXIII Addl. Chief Judge, Hyderabad.

Between:

G.B.Lazarus Jana,, S/o Jana David, Occ Clerk in South West Railways, R/o H.No.180, Krupanagar, Mantur Road, Hubli, Karnataka Dist.

... Accused/Petitioner

AND

- 1. Smt. Sree Jyothi,, W/o G.B.Lazaru Jana, Occ Household R/o L-28, O.U.Staff Quarters, Hyderabad.**
- 2. The State of Andhra Pradesh,, Represented by its Public Prosecutor, High Court of Andhra Pradesh, Hyderabad.**

... Complainant / Respondent

IA NO: 1 OF 2012 (CRL.RC. M.P. NO.1342 OF 2012)

Petition under Section 482 of Cr.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the orders passed in M.C.No.199 of 2008, dated 02.05.2012 on the file of the Addl. Metropolitan Sessions Judge-Spl. Judge for the trial of JHCBB Case-cum-Addl. Family Court-cum-XXIII Addl. Chief Judge, Hyderabad, pending disposal of the Crl.R.C.

IA NO: 2 OF 2012(CRL.RC. M.P. NO.1938 OF 2012)

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders passed in Crl.R.C.M.P.No.1342 of 2012 in Crl.R.C.No.863 of 2012, dated 15.06.2012.

Counsel for the Petitioner: Sri G L Narasimha Rao

Counsel for the Respondent No.1: Sri. N. Praveen Kumar (NA)

Counsel for the Respondent No.2: Sri Vizarith Ali, Asst. Public Prosecutor

The Court made the following: ORDER

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THE HON'BLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE No.863 OF 2012

ORDER:

1 This Criminal Revision Case, under Sections 397 & 401 of Cr.P.C., is filed by the petitioner, challenging the judgment, dated 02.05.2012, passed in M.C.No.199 of 2008 by the learned Addl. Metropolitan Sessions Judge-Special Judge for JHBBC- Additional Family court – cum – XXIII Additional Chief Judge, at Hyderabad.

2 Heard the learned counsel for the petitioner and the learned Public Prosecutor for the respondent - State. Perused the record.

3 The facts germane for filing of the present criminal revision case, succinctly, are that the marriage of the petitioner-husband and the first respondent-wife was performed on 5.08.2006 and at the time of marriage the parents of the first respondent gave Rs.5,00,000/- cash, gold, household articles and furniture to the petitioner towards dowry. The petitioner and his family members demanded additional dowry of Rs.5,00,000/- and the conciliation initiated by the 1st respondent failed due to the attitude of the petitioner and the 1st respondent has no means to maintain herself. The petitioner is earning Rs.25,000/- per month and he has income from other properties but neglected her to maintain and hence 1st respondent filed a maintenance case against the petitioner.

4 The petitioner herein, being the respondent before the trial Court, filed counter affidavit, while admitting the factum of marriage, *inter alia*, contended that the 1st respondent deserted the petitioner due to her mental disorder and due to her illicit contact with others she got pregnancy before marriage. As such, she deserted the company of the respondent.

5 During the course of trial before the lower Court, the 1st respondent got herself examined as P.W.1 and marked Ex.P1 to P3. On behalf of the petitioner, the petitioner himself examined as R.W.1 and got marked Exs.R.1 to R.4.

6 After going through the entire material available on record, the trial Court allowed the petition granted Rs.4,000/- p.m. to the 1st respondent towards maintenance. Hence the present criminal revision case.

7 The contention of the learned counsel for the petitioner is that the 1st respondent is mentally imbalanced and she was behaving in a queer manner with him. The petitioner is relying upon Ex.R-4, an undertaking given by the 1st respondent to the women police, Hubli to the effect that she will not threaten the respondent or attempt suicide.

8 There is no dispute with regard to the matrimonial relationship of the petitioner and the first respondent and date of marriage i.e. 5.8.2006. PW1 was hospitalized on 19.1.2007 and the pregnancy was terminated and was discharged on 27.1.2007. According to RW2, doctor the pregnancy was terminated on 23.1.2007. According to RW1, he attributed illegal contact to the PW1, due to which she deserted his company, but the circumstances of the case do not support RW1 as Ex.P1 is a letter of apology tendered by the RW1 on 12-11-2007 to PW1, which clearly establishes that they both were together even after the date of termination of pregnancy, as there was no need to RW1 to tender apology to PW1, if they were separated by that date. This circumstance improbabilises the plea of adultery, and the said plea was rejected by the trial Court. Except the solitary testimony of the petitioner, there is no other evidence available on record to establish that the 1st respondent herein is having extra marital relationship with anybody. The evidence of the petitioner as R.W.1 lacks corroboration on that aspect. It is nothing but attributing unchastity to the character or conduct of the first respondent which would amount to cruelty on the part of the petitioner in the absence of any clear and cogent evidence. Therefore, it is obvious that the petitioner neglected the 1st respondent to maintain.

9 In that view of the matter, the trial Court below had rightly allowed the maintenance cases by granting a monthly maintenance of Rs.4,000/- to the first respondent herein. I see no ground much less valid ground to interfere with the concurrent findings of the Courts below and accordingly this criminal revision case does not deserve merit consideration.

10 In the result, the criminal revision case is dismissed. Miscellaneous petitions, if any, pending in this criminal revision case shall also stand dismissed.

SD/- CH. VENKATESWARLU
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Addl. Metropolitan Sessions Judge-Spl. Judge for the trial of JHCBB Case-cum-Addl. Family Court-cum-XXIII Addl. Chief Judge, Hyderabad (with records)
2. One CC to Sri. G L Narasimha Rao Advocate [OPUC]
3. One CC to Sri. N. Praveen Kumar Advocate [OPUC]
4. Two CCs to Public Prosecutor, High Court for the State of Telangana. [OUT]
5. Two CD Copies.

YJR/JAK

YJR

HIGH COURT

DATED:18/10/2023

ORDER

CRLRC.No.863 of 2012



DISMISSING THE CRL. RC

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