

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

WEDNESDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

Criminal Revision Case No.1294 of 2011.

Criminal Revision filed under Section 397 & 401 Cr .P.C. aggrieved by the judgment dated 29.04.2011 in D.V.C.No.29 of 2011 on the file of the I Additional Sessions Judge, at Khammam in setting set aside the order dated 23.12.2010 in D.V.C.No.8 of 2008 on the file of the I Additional Judicial Magistrate of First Class at Khammam.

Between:

1. Narne Madhavi, W/o. Late Laxman, aged 35 years, R/o. H.No. 9-2-120, Old Club Roae, Khammam Town and District.
 2. Name Nihal Chowdary, S/o. Late Laxman, R/o. H.No. 9-2-120, Old Club Roae, Khammam Town and District.
- (petitioner No. 2 being minor, represented by his mother 1st petitioner)

...Petitioners/Respondents/Complainants.

AND

1. Narne Laxman (DIED).
2. Narne Venkateswara Rao, S/o. Ramaiah, age 58 years, R/o. Konakanchi Village, Penaganchiprolu (M), Krishna District.
3. Narne Subbamma, W/o. Venkateswara Rao, age 53 years, R/o. Konakanchi Village, Penaganchiprolu (M), Krishna District.
4. Narne Srinivasa Rao, S/o. Venkateswara Rao, age 40 years, R/o. Konakanchi Village, Penaganchiprolu (M), Krishna District.
5. Narne Ramu, S/o. Venkateswara Rao, age 36 years, R/o Bombay, Native of Konakanchi Village, Penaganchiprolu (M), Krishna District.
6. Name Kalpana, W/o. Ramu, age 33 years, R/o Bombay, Native of Konakanchi Village, Penaganchiprolu (M), Krishna District.

..Respondents/Appellants/Respnodents.

7. State of A.P., Rept. by its Public Prosecutor, High Court of A.P., Hyderabad.

...Respondent.

I.A. NO: 2 OF 2011(CRLRC MP. NO: 1854 OF 2011)

Petition under Section 482 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 DVC A.No.29 of 2011, dt.29-04-2011 by the I Addl. Sessions Judge, at Khammam.

I.A. NO: 3 OF 2011(CRLRC MP. NO: 2460 OF 2011)

Petition under Section 482 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 direct the respondents 2 to 6 to pay the maintenance to the petitioners pending disposal of the main CrI.R.C. and pass

Counsel for the Petitioners: Mr.Siva Ram Sharma for K.Rathanga Pani Reddy.

Counsel for the Respondent Nos.2 to 6: Ms Bhanu for P. Nagendra Reddy.

Counsel for the Respondent No.7: The Public Prosecutor.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL**CRIMINAL REVISION CASE No.1294 OF 2011****ORDER:**

The present Criminal Revision Case is filed aggrieved by the order dated 29.04.2011 passed in D.V.C. Appeal No.29 of 2011 on the file of the learned I Additional Sessions Judge, at Khammam (for short, "the appellate Court") in setting aside the order dated 23.12.2010 passed in D.V.C.No.8 of 2008 on the file of the learned I Additional Judicial Magistrate of First Class, at Khammam (for short, "the trial Court").

2. Heard Mr. Shiva Ram Sharma, learned counsel representing Mr. K. Rathanga Pani Reddy, learned counsel for the petitioners, Ms. Bhanu, learned counsel representing Mr. P. Nagendra Reddy, learned counsel for unofficial respondent Nos.2 to 6 and Mr. Vizarith Ali, learned Assistant Public Prosecutor appearing for the respondent state.

3. The brief facts of the case are that the petitioner was married earlier. But in view of the disputes that cropped up between both of them the petitioner obtained divorce. Later, she married respondent No.1. Out of their wedlock, they were blessed with petitioner No.2. Respondent No.1 and his parents, harassed

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petitioner No.1 physically and mentally for want of additional dowry. Unable to bear such harassment, petitioner No.1 filed D.V.C.No.8 of 2008 before the trial Court seeking protection orders, residential orders, maintenance etc. But, during the pendency of the D.V.C, respondent No.1 died.

4. The trial Court vide order dated 23.12.2010 in D.V.C.No.8 of 2008 granted protection order to petitioners thereby, prohibited respondent Nos.2 to 6 from committing any acts under Section.18 of the Protection of Women from Domestic Violence Act (for short, "the Act"). Respondent Nos.2 to 6 were ordered to provide accommodation to petitioners and pay rent or an amount of Rs.5,000/- per month to the petitioners towards rent under Section 19(f) of the Act and she was granted to stay anywhere. Respondent Nos.1 to 6 were further ordered to pay an amount of Rs.10,000/- per month to petitioner No.1 and Rs.5,000/- per month to petitioner No.2 towards their maintenance under Section 20 of the Act. Aggrieved by which, the unofficial respondents preferred an Appeal.

5. The appellate Court vide order dated 20.04.2011 in D.V.C. Appeal No.29 of 2011 reversed the findings given by the trial Court stating that the unofficial respondents were already

acquitted for the allegations of cruelty under Section 498-A I.P.C. and Sections. 3 & 4 of Dowry Prohibition Act in C.C.No.654 of 2007 and dismissed the appeal. Aggrieved by the same, the present Revision.

6. Learned counsel for the petitioners submits that the husband of petitioner No.1 died and the petitioners were necked out from their house. Therefore, petitioners are in need of residence order, maintenance and protection order from the unofficial respondents. Therefore, seeks to set aside the impugned order.

7. Learned Assistant Public Prosecutor submits that the appellate Court after careful scrutiny of the oral and documentary evidence on record, rightly passed the impugned order. Therefore, contends that the interference from this Court is unwarranted and seeks to dismiss the Revision.

8. On behalf of the petitioners, the trial Court examined PWs.1 to 3 and marked Exs.P1 to P3. On behalf of respondent Nos.1 to 6 RWs.1 and 2 were examined and no documents were marked. The trial Court after examining the oral and documentary evidence held that the unofficial respondents were under an obligation to maintain petitioners and provide them

accommodation for their residence. Therefore, passed the order dated 23.12.2010 in D.V.C.No.8 of 2008.

9. However, the appellate Court observed that PW1 was staying with her parents and there is no common residence. Therefore, there is no legal requirement to pass any order under Section 18(a to g) of the Act. Since, the husband of petitioner No.1 is no more, it held that the lower Court improperly fixed the rent. As, there was no evidence to show that there were joint family properties, the appellate Court observed that the question of paying maintenance by unofficial respondents do not arise holding that the right of the petitioner arises only from out of the joint family, to the extent of her husband's right and nothing more or less.

10. In the present case, no land was transferred in the name of unofficial respondents and no amounts were received by them as all the alleged payments were made as pasupukumkuma and also for a specific purpose of purchasing the plot, vehicle and articles. Therefore, in the absence of any clear damage caused to the petitioners, the question of passing an order of maintenance does not arise. Further, as the right of the petitioners arises primarily out of the joint family property to the extent of share of

her husband, the appellate Court held that there was no legal obligation on the part of in-laws personally to maintain petitioners. The liability of the in-laws would arise only when it is established that they were holding the property which their deceased son was having. Therefore, the learned Judge, appellate Court held that the order passed by the trial Court is erroneous and not supported by reasoning and law.

11. The learned Judge, appellate Court after examining the legal and factual aspects has rightly passed the impugned order stating that the parents of the deceased son are not under an obligation to maintain their daughter-in-law. The wife is entitled to claim any right from the property of her husband alone and nothing beyond it. If the husband dies, the wife cannot claim any maintenance from in-laws which is just and reasonable in the present facts and circumstances of the case. Therefore, I find no reason to interfere with the impugned order.

12. Accordingly, the Criminal Revision Case stands dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

SD/- T. KRISHNA KUMAR
DEPUTY REGISTRAR
SECTION OFFICER

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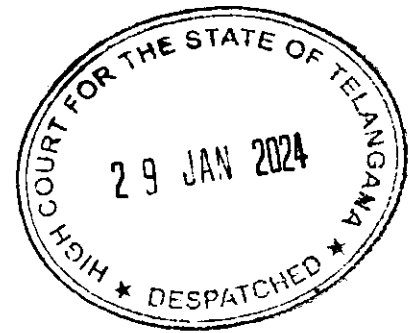
To,

1. The I Additional Sessions Judge, at Khammam.
2. The I Additional Judicial Magistrate of First Class at Khammam.
3. One CC to Sri K.Rathanga Pani Reddy, Advocate [OPUC]
4. One CC to Sri P.Nagendra Reddy, Advocate [OPUC]
5. One CC to the Public Prosecutor, High Court Buildings, Hyderabad. [OPUC]
6. Two CD Copies.

HIGH COURT

EVV, J

DATED: 11/10/2023



ORDER

CRLRC.No.1294 of 2011

DISMISSING THE CRIMINAL REVISION.

8 Copies

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22/12/23