

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

**THURSDAY, THE EIGHTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 743 OF 2015

Criminal Revision Case filed under Section 397 and 401 of Cr.PC against the Order dated 10.01.2013 made in CrI.RP.No.16 of 2012 on the file of the Court of the Principal Sessions Judge Medak at Sangareddy preferred against the Order dated 04.01.2012 made in MC.No.4 of 2010 on the file of the Court of the Judicial First Class Magistrate at Zaheerabad.

Between:

Kanti Annapurna, W/o. Kardas Krishna, Occ : Housewife, R/o.H.No.MIG-53, APHB Colony, Zaheerabad Town, Presently residing at H.No.1-5-49, Ward No.4, Hanuman Mohalla, Zaheerabad Town, Medak District.

...Petitioner

AND

1. The State of A.P. Rep., by its Public Prosecutor, High Court of Andhra Pradesh, at Hyderabad.
2. Kardas Krishna, S/o. Kardas Kantha Rao, Occ Driver, R/o.H.No.MIG-53, APHB Colony, Zaheerabad Town, Medak District.

...Respondents

I.A. NO: 1 OF 2015(CRLRCMP. NO: 1240 OF 2015)

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 suspend the operation of the order dated 10.01.2013 in Criminal RP No.16 of 2012 on the file of the Principal Sessions Judge, Medak at Sangareddy.

Counsel for the Petitioner : Sri N Krishna Sumanth

**Counsel for the Respondent No.1 : Sri Vizarath Ali, Assistant
Public Prosecutor**

Counsel for the Respondent No.2 : Sri Palle Sriharinath

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL

CRIMINAL REVISION CASE No.743 OF 2015

ORDER:

The present Criminal Revision Case is filed seeking to set aside the judgment dated 10.01.2013 passed in CrI.R.P.No.16 of 2012 by the learned Principal Sessions Judge, Medak (for short, "the appellate Court") by confirming the order dated 04.01.2012 passed in M.C.No.4 of 2010 by the learned Judicial Magistrate of First Class, Zaheerabad(for short, "the trial Court").

2. No representation on behalf of revision petitioner. Heard learned counsel for unofficial respondent and Mr. Khaja Vizarath Ali, learned Assistant Public Prosecutor appearing for respondent No.1-State.

3. There was no representation on behalf of the petitioner on 28.02.2023, 10.03.2023, 19.04.2023 and 16.04.2023. Even today also, there is no representation on behalf of the petitioner in spite of listing the matter under the caption, "for dismissal". Therefore, this Court is inclined to proceed with the matter on merits of the case as per the decision of the Hon'ble Apex Court in "*Bani Singh*

and others Vs. State of Uttar Pradesh¹", wherein it was categorically held that the High Court cannot dismiss any appeal for non-prosecution *simpliciter* without examining the merits.

4. The brief facts of the case are that the petitioner is the legally wedded wife of respondent No.2 and their marriage took place on 11.07.2007. They lived happily for three months. Later, the respondent No.2 and his mother harassed the petitioner for want of additional dowry. The petitioner came to know that respondent No.2 married another woman. As the petitioner is not able to maintain herself, she filed maintenance case against the petitioner, seeking maintenance.

5. The trial Court vide order dated 04.01.2012 in M.C.No.4 of 2010, directed respondent No.2 to pay an amount of Rs.2,000/- per month towards maintenance from the date of the order. Assailing the same, the respondent No.2/husband preferred an appeal.

6. The appellate Court vide order dated 10.01.2013 passed in Crl.R.P.No.16 of 2012 allowed the petition, setting aside the order dated 04.01.2012 in M.C.No.4 of 2010 passed by the trial Court.

¹ (1996) 4 Supreme Court Cases 720

Assailing the same, the present Revision is preferred by the petitioner.

7. As per the grounds raised in the Revision, the petitioner submitted that the appellate Court, without any sufficient cause erroneously allowed the Criminal Revision Petition by setting aside the order passed by the learned trial Court. It is further submitted that the petitioner was not able to maintain herself and it is the responsibility of respondent No.2 to provide maintenance to her. Therefore, seeks to set aside the impugned order passed by the learned appellate Court by confirming the order passed by the learned trial Court.

8. Learned Assistant Public Prosecutor submitted that the appellate Court after appreciating the oral and documentary evidence available on record in a proper perspective rightly passed the impugned order and interference of this Court is unwarranted. Therefore, seeks to dismiss the Revision.

9. The trial Court examined PWs.1 to 3 on behalf of petitioner and no documents were marked on her behalf. RWs.1 and 2 were examined on behalf of respondent and he got marked Ex.R1.

10. After appreciation of the oral and documentary evidence available on record, the appellate Court has rightly opined that the petitioner did not file any document to prove that she obtained divorce before their caste elders pertaining to her previous marriage with one Venugopal. Further opined that the petitioner has contracted second marriage with respondent No.2 without legally nullifying her previous marriage. Therefore, the appellate Court opined that she is not legally wedded wife of respondent No.2. It is further opined by the appellate Court that the Ex.R1 Declaration, which was marked on behalf of respondent No.2, reveals that the petitioner relinquished her claim of maintenance, in which it was mentioned that she cannot claim past, present and future maintenance.

11. Upon a careful consideration of the entire material available on record, this Court is of the considered view that the petitioner was married to another person earlier and she did not obtain divorce and her marriage with the respondent No.2 is not valid. When the marriage itself is not valid, the question of claiming or granting maintenance does not arise. Hence, I do not find any reason to interfere with the order passed by the appellate Court.

Therefore, this Court is not inclined to entertain the Revision as the same is devoid of merits.

12. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

//TRUE COPY//

SD/- K ONESIM,
DEPUTY REGISTRAR.

SECTION OFFICER

To,

1. The Principal Sessions Judge Modak at Sangareddy
2. The Judicial First Class Magistrate at Zaheerabad
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
4. One CC to Sri N Krishna Sumanth, Advocate [OPUC]
5. One CC to Sri Palte Sriharinath, Advocate [OPUC]
6. Two CD Copies

ADK



HIGH COURT

DATED:18/04/2024



ORDER

CRLRC.No.743 of 2015

DISMISSING THE CRLRC

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09/09/24
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