

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

**FRIDAY, THE TWELFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HON'BLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE No: 282 of 2019

Criminal Revision filed under Section 397 & 401 of Cr.P.C., against the Judgment dated 11-11-2018 in MC.No.51 of 2016 on the file of the Court of the Family Court-cum-Additional District & Sessions Court at Nizamabad.

Between:

Smt. Bobbili Udayasree, W/o. Late. B. Srinivas, Age: 39 years, Occ: Employee in Electricity Department, R/o. H.No.3-4-205, Kotagaly, Nizamabad.

...Petitioner/Accused

AND

1. Bobbili Shankar, S/o. B. Papaiah, Aged about 72 years, Occ: Retired Life.
2. Smt. Bobbili Bhulaxmi, W/o. B. Shankar, Age: 65 years, Occ: Household, Both are R/o. H.No.3-4-205, Kotagaly, Nizamabad.
3. The State of Telangana, Rep. by its Public Prosecutor, High Court of For the State of Telangana

...Respondent/Complainant

IA NO: 1 OF 2019

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 order passed in M.C. No. 51 of 2016 order dated 11-11-2018 on the file of Family Court cum Additional District and Sessions Judge, at Nizamabad Hyderabad, pending disposal of the Criminal Revision.

Counsel for the Petitioner: SRI T. SRUJAN KUMAR REDDY

**Counsel for the Respondent No.3: Mr. VIZARATH ALI, ASSISTANT PUBLIC
PROSECUTOR**

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE No.282 OF 2019

ORDER:

1 This Criminal Revision Case, under Sections 397 & 401 of Cr.P.C., is filed by the petitioners, challenging the order, dated 11.11.2018 passed in M.C.No.51 of 2016 by the learned Judge, Family Court-cum-Additional District & Sessions Judge at Nizamabad wherein the respondent Nos.1 and 2 herein were awarded an amount of Rs.3,000/- each totaling to Rs.6,000/- p.m. towards their maintenance from the petitioner herein.

2 Heard Sri T.Srujan Kumar Reddy, learned counsel for the petitioner. Perused the record.

3 The facts germane for filing of the present criminal revision case, succinctly, are that the respondent Nos.1 and 2 who are parents-in-law of the petitioner herein filed a petition under Sections 20 and 21 r/w 22 (1) of the Hindu Adoptions and Maintenance Act, 1956 claiming maintenance from the petitioner. The contention of the respondent Nos.1 and 2 was that the respondents were blessed with two sons and two daughters. The petitioner herein was the wife of their deceased elder son by name Srinivas. It was contended that even during the

lifetime of said Srinivas, the respondents were dependent upon him due to their ailments. The said Srinivas worked as Junior Lineman in Electricity department. After the death of Srinivas, the petitioner herein took away all his death and other benefits. The petitioner was given compassionate appointment consequent upon the death of their son. The petitioner took no objection from the respondents and other family members while securing the compassionate employment by giving an undertaking that she would lookafter the respondents. But she is not providing any financial assistance to them for their treatment. On the petition filed by the respondents in O.P.No.35 of 2015, payment of amounts covered under LIC and part of pensionary benefits of late B.Srinivas to the petitioner were stopped by an order of the learned Senior Civil Judge, Nizamabad. The main contention of the respondent Nos.1 and 2 is that the heirs of the deceased Hindu son are bound to maintain the dependents of the deceased out of the estate inherited by them from the deceased. So the petitioner herein being the heir of the deceased B.Srinivas is bound to maintain the respondents as she is enjoying the estate of the deceased.

4 The respondent Nos.1 and 2 got issued a legal notice dated 07.12.2016 to the authorities of Electricity Department. The

respondents need money for their treatment and maintenance. Their younger son is getting only an amount of Rs.4,000/- p.m. The petitioner herein at the behest of her son illegally occupied the estate of their deceased son. At the cost of the life and liberty of the respondents, the petitioner is enjoying the fruits of their son and not caring for their welfare.

5 The petitioner herein filed counter affidavit, *inter alia* admitting the relationship, denied the various allegations made in the petition. It is her contention that during the lifetime of her husband, he used to work in electricity Department on contract basis and he also used to run an electrical shop in the name and style of Om Electrical at Shivaji Chourasta, Shivajinagar, Nizamabad which was established by raising loans from the bank. After the death of her husband, the respondents sold away the said shop and usurped the amounts realized from it. The petitioner was forced to repay the loan amount from out of her savings and by raising loan from her well wishers. The job of her husband was made permanent only nine months prior to his death. Hence no she did not receive any death benefits of her husband. The younger son of the respondents is getting Rs.12,000/- p.m. and that the respondents are also getting old age monthly pension from the

Government at Rs.1,000/- each. Hence she prayed to dismiss the petition.

6 During the course of enquiry, the first respondent herein got examined himself as P.W.1 and got marked Exs.P1 to P.3. The petitioner herein got herself examined as R.W.1.

7 The learned trial Judge, after appreciating the entire material available on record, held that the petitioner herein is bound to maintain the respondent Nos.1 and 2 herein and accordingly awarded the maintenance as stated supra. Hence the present criminal revision case.

8 The learned counsel for the petitioner submitted that the respondents herein are not dependents on the revision petitioner and that the respondents are also having another son and two daughters who are also legally liable to maintain the respondents herein. He further submitted that the house in which the petitioner and the respondents are living was in fact constructed by the deceased Srinivas by raising loans and that the respondents forced the petitioner herein to repay the loan amounts availed by the deceased for running the electrical shop. It is his further contention that the petitioner is

getting only Rs.18,000/- per month towards salary and hence the amount awarded by the Court below is exorbitant and inappropriate.

9 In the backdrop of the above history this Court feels it apt to decide whether the petitioner herein is liable to maintain the respondents herein.

10 As per Section 21 (i) & (ii) of Hindu Adoptions and Maintenance Act, 1956, which defines who is dependent, the respondents herein are dependents on the deceased Srinivas (husband of the petitioner herein). As per Section 22 of the said Act, subject to the provisions of sub-section (2), the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.

11 As per sub-section (2) of Section 22, where a dependant has not obtained, by testamentary or intestate succession, any share in the estate of a Hindu dying after the commencement of this Act, the dependant shall be entitled, subject to the provisions of this Act to maintenance from those who take the estate. However, sub-section (3) of Section 22 of the Act says that the liability of each of the persons who take the estate shall be in proportion to the value of the share or part of the estate taken by him or her.

12 In the view of the matter, it is undisputed fact that the respondents herein are the natural parents of the deceased Srinivas and since the death benefits of the deceased were granted to the petitioner and since the petitioner herein was also given compassionate appointment consequent upon the death of Srinivas, the petitioner is bound to maintain the respondents since the heirs of the deceased Hindu son are bound to maintain the dependents of the deceased out of the estate inherited by them from the deceased. So the petitioner herein being the heir of the deceased B.Srinivas is bound to maintain the respondents as she is enjoying the estate of the deceased and having undertaken in writing to take care of the maintenance of the respondents herein.

13 It is also borne out of the record that the younger son of the respondents is also residing in the same house where the respondents are residing along with his family. So he is also having a responsibility to maintain his parents apart from the petitioner herein.

14 The next question under which provision the present case has to be dealt with. The respondents herein have filed the petition under the provisions of the Hindu Adoptions and Maintenance Act, 1956. But due to oversight the matter was registered as a maintenance case

under Section 125 Cr.P.C. which is nothing but a procedural irregularity. But the same should have been registered as O.P. under Section 22 of the Hindu Adoptions and Maintenance Act, 1956.

15 Coming to the quantum of maintenance, since it is admitted by the petitioner herein that she is getting Rs.18,000/- p.m. towards salary and since she has discharged the loans availed by her husband and also the loan availed by the younger son of the respondents herein and since she also has some financial constraints, as seen from the record, and since the younger son of the respondents is also a bound to maintain the respondents, in my considered view the maintenance awarded by the court below is just and proper in the facts and circumstances of the case. Hence I see no reason to interfere with the order impugned in this revision.

16 It is brought to the notice of this Court that during the pendency of the proceedings before this Court, the first respondent herein died. Hence the order of the Court below is modified to the extent that the petitioner herein shall pay an amount of Rs.3,000/- to the second respondent only and the order awarding of maintenance of Rs.3,000/- to the first respondent is hereby set aside.

17 Accordingly, this criminal revision case is dismissed.

18 Miscellaneous petitions if any pending in this criminal revision case shall also stand dismissed.

SD/- T.KRISHNA KUMAR
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Family Court-cum-Additional District & Sessions Court at Nizamabad.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. (OUT)
3. One CC to SRI T. SRUJAN KUMAR REDDY, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED:12/01/2024



ORDER

CRLRC.No.282 of 2019

**DISMISSING OF THE
CRIMINAL REVISION CASE**

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