

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

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

PRESENT

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL REVISION CASE NO: 580 OF 2024

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. docket order dated 25-1-2024 made in CrI.A.No. 49 of 2023 on the file of the I Additional Family Court-cum-XIV Additional Metropolitan Sessions Judge, Hyderabad.

Between:

J. Govind Sagar S/o J. Anjaneyulu, aged about 41 years, occ. Private Employee r/o H.No. 77 and 82, Phase-I, Haslinapuram Central, Indraprastha Colony, L.B.Nagar, R.R.District.

**...PETITIONER
(RESPONDENT No. 1/APPELLANT)**

AND

1. The State of Telangana, rep. by its Public Prosecutor, High Court, Hyderabad.
 2. Smt. J.Renuka, W/o J.Govind Sagar, aged 35 years, Occ. Housewife,
 3. J.Teja Shree, D/o J.Govind Sagar, aged About 10 years, Occ. Student
 4. J.Sai Charan Sagar, s/o J. Govind Sagar Aged about 8 years, occ. Student Nos. 3 and 4 being minors, rep. by their Mother and natural guardian Res.No.2
- All are r/o H.No. 13-6-301/B, Karwan Kulsumpura, Hyderabad.

...RESPONDENTS

IA NO: 2 OF 2024

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 grant stay of all further proceedings including the execution of the orders passed in D.V.C.No. 176 of 2015 dt. 20-2-2023 on the file of the III Metropolitan Magistrate (Traffic Mobile Court), Hyderabad, pending disposal of the main CrI.R.C., in the interest of justice.

Counsel for the Petitioner: Ms. K. Anjamma

Counsel for the Respondent No. 1: Sri S. Ganesh, Public Prosecutor

Counsel for the Respondents 2 to 4: Sri S.N. Veerender Singh

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

CRIMINAL REVISION CASE No.580 OF 2024

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the appellant/respondent No.1 aggrieved by the docket order dated 25.01.2024 passed in CrI.A.No.49 of 2023 on the file of the I Additional Family Court-cum-XIV Additional Metropolitan Sessions Judge, Hyderabad.

2. Heard Ms. K.Anjamma, learned counsel for the revision petitioner, Sri S.Ganesh, learned Assistant Public Prosecutor for respondent No.1-State and Sri S.N.Veerender Singh, learned counsel for the respondent Nos.2 to 4.

3. Relevant facts in brief are that, the respondent Nos.2 to 4 (hereinafter 'the respondents') had filed D.V.C.No.176 of 2015 seeking the reliefs under Section 12 of Protection of Women from Domestic Violence Act, 2005 against the revision petitioner/appellant (hereinafter the petitioner') and others which was allowed in part vide order dated 20.02.2023. Aggrieved thereby, the petitioner preferred appeal and on relevant date as the petitioner did not attend or there was no

representation even after waiting, the appeal was dismissed for default. Aggrieved thereby, the present revision has been filed.

4. Learned counsel for the petitioner would submit that the first appellate Court without considering the settled position, the appeal cannot be dismissed for non-representation, for prosecution of appeal but the appeal shall be considered on merits and pass appropriate orders. Therefore, the impugned order is un-sustainable under law. In support, he has cited the judgment of Hon'ble Supreme Court in ***K.Muruganandam and Others Vs.State***¹, and pleaded that, in the authority it has been categorically observed that the criminal appeal has to be considered on merits and cannot be dismissed for non prosecution.

5. I have perused the materials placed on record.

6. The impugned order is clear that the Criminal Appeal has been dismissed for non-prosecution, for default. As rightly pointed out by the revision petitioner that, the Hon'ble Supreme Court in *K.Muruganandam's* case (supra) held that the criminal appeal cannot be dismissed for non-representation or prosecution and the Court is endowed with obligation to consider the appeal on merits even by appointing *amicus curiae*. In the light of this settled position, it has to be

¹ 2021 LawSuit (SC) 433

held that the impugned order is un-sustainable and is accordingly, set aside.

7. Resultantly, the Criminal Revision Case is allowed and the Criminal Appeal No.49 of 2023 is restored to file and the first appellate Court is directed to adjudicate the appeal on merits by extending due opportunity to the parties. It is needless to say that, if the petitioner fails to proceed with the appeal, the first appellate Court would be at liberty to consider the appeal on merits, even by appointing *amicus curiae*. Let this exercise be completed, as expeditiously as possible, preferably within three months from the date of receipt of a copy of this order.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- T. KRISHNA KUMAR
DEPUTY REGISTRAR



//TRUE COPY//

SECTION OFFICER

To,

1. The I Additional Family Court-cum-XIV Additional Metropolitan Sessions Judge, Hyderabad. (with records, if any)
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad.
3. One CC to Sri Kadari Anjamma, Advocate [OPUC]
4. One CC to Sri S. N. Veerender Singh, Advocate [OPUC]
5. Two CD Copies

VH/gh



HIGH COURT

DATED: 18/07/2024

ORDER

CRLRC.No.580 of 2024



ALLOWING THE CRL.R.C

(S) Copied

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19/10/24