IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

TUESDAY ,THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL REVISION CASE NO: 600 OF 2024

The Criminal Revision case filed under Section 438 & 442 of BNSS, 2023 against

a) the Judgment passed by the Hon'ble VI Additional District and Sessions Court, Nellore in Criminal Appeal No. 37/2023, dated 03-May-2024

b) the Final Order passed by the Hon'ble Court of Special Judicial Magistrate of First Class for Trial of Prohibition and Excise Offences, Nellore in D.V.C. No. 27 of 2016 dated 09-Dec-2022

c) set aside all orders passed in proceedings arising/subsequent to the above final order specifically, Crl.MP 361/2020, Crl.MP 380/2020 and Crl.MP. 691/2020 .

Between:

Kalavakuru Srinivas Kumar Reddy, S/o Chandra Sekhar Reddy, R/o Rasi Layout, Saptagiri Colony (Behind), Brundavanam Apartment, Eastern Side Wedge of Flyover (Near) Ayyappa Temple, Old Vedayapalem, SPSR Nellore District.

...Revisionist Petitioner

AND

1. Kalavakuru @Revuru Sujatha @Lakshmi Sujatha, W/o Kalavakuru Srinivas Kumar Reddy,

2. Kalavakuru Vidya Varshita, D/o Kalavakuru Srinivas Kumar Reddy

Both R/o LIG-H Plot No.33, Housing Board Colony, Behind Nippo Factory, A.K. Nagar Post, SPSR Nellore District

...Original Complainants/Respondent Nos. 1-2

3. The State of Andhra Pradesh, Rep by its Public Prosecutor, High Court of Andhra Pradesh, Nelapadu, Amaravati, Guntur District

...Respondent No.3

IA NO: 2 OF 2024

Petition under Section 482 Cr.P.C (528 of BNSS, 2023) praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the Judgment passed by the Hon'ble VI Additional District & Sessions Court, Nellore in Criminal Appeal No. 37/2023, dated 03-May-2024 and the Final Order passed by the Hon'ble Court of Special Judicial Magistrate of First Class for Trial of. Prohibition and Excise Offences, Nellore in D.V.C. No. 27 of 2016 dated 09-Dec-2022, and also stay the proceedings of execution under Crl.MP 361/2020, Crl.MP 380/2020 and Crl.MP. 691/2020 in D.V.C. No. 27 of 2016, pending disposal of this Criminal Revision case

Counsel for the Petitioner : SRI SANDEEP PAMARATI

Counsel for the Respondent Nos. 1 & 2 : SRI S V MUNI REDDY

Counsel for the Respondent No.3: THE PUBLIC PROSECUTOR

The Court made the following: ORDER

APHC010288532024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3327]**
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL REVISION CASE NO: 600/2024

Between:

Kalavakuru Srinivas Kumar Reddy, **...PETITIONER**

A N D

Kalavakuru Revuru Sujatha Lakshmi Sujatha **...RESPONDENT(S)**
and Others

Counsel for the Petitioner:

1. SANDEEP BHAVAN PAMARATI

Counsel for the Respondent(S):

1. S V MUNI REDDY

2. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

This Criminal Revision Case was filed by the petitioner herein/husband, against the Judgment dated 03.05.2024 passed in Criminal Appeal No.37 of 2023 by the learned VI Additional District and Sessions Judge, Nellore (for brevity 'the learned Sessions Judge').

2. The petitioner herein is the husband of respondent No.1 and father of respondent No.2. The respondent Nos.1 and 2 herein filed Domestic Violence Case (for brevity 'DVC') No.27 of 2016 under Sections 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (for brevity 'the DVC Act') against the petitioner herein/husband on the file of the learned Special Judicial Magistrate of First Class for trial of Prohibition and Excise Offences, Nellore (for brevity 'the learned Magistrate').

3. The learned Magistrate, after full-fledged trial, and after examining the entire evidence brought on record, *vide* Order, dated 09.12.2022 partly allowed the DVC No.27 of 2016, operative portion of which is as under:

> *"18. In the result, the petitioner/complaint is partly allowed, an amount of Rs.10,000/- has already granted by this Court towards maintenance and Rs.7,000/- is already granted*

by the Hon'ble Family Court, Nellore as maintenance, this Court is of the opinion that it would be sufficient for the petitioners for their day to day needs as monthly maintenance from the date of this order. In this regard, this Court is of the opinion that as maintenance is already granted and no further maintenance need to be granted. The 1st respondent is directed to pay an amount of Rs.1,00,000/- towards marriage expenses to the 1st petitioner/aggrieved person. The 1st respondent is directed to pay an amount of Rs.2,00,000/- towards compensation to the 1st petitioner/aggrieved person for the acts of domestic violence committed by him to the 1st petitioner/aggrieved person. An amount of Rs.4,000/- is granted for alternative accommodation earlier in Crl.M.P.No.1120/2016 and the same is continued.

Crl.M.P.No.380/2020 in Crl.M.P.No.1120/2016 is pending for payment of arrears of Rs.1,90,000/- and the 1st respondent is directed to pay the same within three months from the date of this order.

In Crl.M.P.No.691/2019 in Crl.M.P.No.1120/2017 in D.V.C.No.27/2016 previously on 08.01.2020 there is a direction to the garnishee of the 1st respondent i.e. Mandal Educational Officer, Nellore Rural Mandal, Railway Feeders Road, Nellore Corporation, SPSR Nellore District to attach the arrears of interim maintenance and accommodation of Rs.80,000/- pertaining to Crl.M.P.No.914/2017 and Rs.2,70,000/- pertaining to Crl.M.P.No.691/2019 i.e. total Rs.3,50,000/- from the salary of the respondent as per law.

In Crl.M.P.No.914/2017, Crl.M.P.No.691/2019 as garnishee of the 1st respondent is already directed to attach salary of the 1st respondent, the maintenance is granted to the petitioners only from the date of order and not from the date of filing of the petition. Crl.M.Ps if any, further pending shall stands dismissed. The petition is dismissed in respect of other reliefs."

4. Aggrieved by the said Order, the petitioner herein/ husband preferred appeal *vide* Criminal Appeal No.37 of 2023 on the file of the learned Sessions Judge. The learned Sessions Judge, after appreciating the entire evidence, *vide* Judgment, dated 03.05.2024, dismissed the Criminal Appeal No.37 of 2023, confirming the Order, dated 09.12.2022 passed in DVC No.27 of 2016 by the learned Magistrate. Challenging the judgment passed in the appeal by the learned Sessions Judge, the present Criminal Revision Case was filed.

5. Heard both sides. Perused the record.

6. Learned counsel for the petitioner herein/husband would contend that no disclosure statement was filed by the respondent No.1 herein/wife and without the said statement, it is difficult to estimate the financial expenses of either of the parties to come to a conclusion as to how much amount is to be awarded to the respondent Nos.1 and 2 towards maintenance.

7. Learned counsel for the respondent Nos.1 and 2 would contend that the petitioner herein/husband did not file any disclosure statement to prove that he is not in a position to pay maintenance to the respondent Nos.1 and 2, therefore, the amount that was awarded by the trial Court to the respondent

Nos.1 and 2 towards maintenance and compensation and which was confirmed by the learned Sessions Judge is not to be interfered and it is on correct lines.

8. A perusal of entire material on record coupled with the Order and Judgment passed by the learned Magistrate and the learned Sessions Judge, respectively, goes to show that either of the parties did not file disclosure statement. A disclosure statement in a Domestic Violence Case (DVC) refers to a document where a party involved in the case is required to provide detailed information about their financial assets and liabilities, including income, property ownership, bank accounts, and debt, as per the Court's Order, usually to help in determining the appropriate maintenance or compensation amount in the case

9. The Hon'ble Apex Court in ***Rajnesh vs. Neha and another***[1] at para No.7-I held as under:

> *"Appropriate guidelines need to be framed on issue of maintenance to cover overlapping jurisdiction under different enactments for payment of maintenance, Interim Maintenance, criteria for determining quantum of maintenance, date from which maintenance is to be awarded, and enforcement or orders of maintenance. While it is true that a party is not precluded from approaching the Court under one or more enactments, since the nature and purpose of the relief under each Act is distinct and*

[1] AIR 2021 Supreme Court 569.

independent, it is equally true that the simultaneous operation of these Acts, would lead to multiplicity of proceedings and conflicting orders. This would have the inevitable effect of overlapping jurisdiction. It is well-settled that a wife can make a claim for maintenance under different statutes. For instance, there is no bar to seek maintenance both under the D.V. Act and S.125 of the Cr.P.C., or under H.M.A. It would, however, be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in a previous proceeding. If maintenance is awarded to the wife in a previously instituted proceeding, she is under a legal obligation to disclose the same in a subsequent proceeding for maintenance, which may be filed under another enactment. While deciding the quantum of maintenance in the subsequent proceeding, the Civil Court/Family Court shall take into account the maintenance awarded in any previously instituted proceeding, and determine the maintenance payable to the claimant. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, Supreme Court direct that in a subsequent maintenance proceeding, the applicant shall disclose the previous maintenance proceeding, and the orders passed therein, so that the Court would take into consideration the maintenance already awarded in the previous proceeding, and grant an adjustment or set-off of the said amount. If the order passed in the previous proceeding requires any modification or variation, the party would be required to move the concerned court in the previous proceeding."

10. A plain reading of the above proposition of law, it is evident that while deciding the quantum of maintenance in the subsequent proceeding, the Civil Court/Family Court shall take

into account the maintenance awarded in any previously instituted proceeding, and determine the maintenance payable to the claimant. The applicant shall disclose the previous maintenance proceeding, and the orders passed therein, to enable the Court to take into consideration the maintenance that was already awarded in the previous proceeding, and grant an adjustment or set-off of the said amount and if the order passed in the previous proceeding requires any modification or variation, the party would be required to move the concerned court in the previous proceeding. In the case on hand, apparently, no disclosure statement was filed. It is mandatory that both husband and wife are supposed to file the disclosure statement before the trial Court. In view of the aforesaid facts and circumstances, this Court is of the opinion that the case in DVC No.27 of 2016 shall be remanded to the Special Judicial Magistrate of First Class for trial of Prohibition and Excise Offences, Nellore, for fresh disposal.

11. Accordingly, the Criminal Revision Case No.600 of 2024 is allowed, setting-aside the Order, dated 09.12.2022 passed in D.V.C.No.27 of 2016 by the learned Special Judicial Magistrate of First Class for trial of Prohibition and Excise Offences, Nellore, which was affirmed in Criminal appeal No.37 of 2023 by the

learned VI Additional District and Sessions Judge, Nellore, is set-aside, and the matter in D.V.C.No.27 of 2016 is remanded to the file of the learned Special Judicial Magistrate of First Class for trial of Prohibition and Excise Offences, Nellore, to call for the disclosure statements of both petitioner herein/husband and respondent No.1 herein/wife, and dispose of the matter, basing on the disclosure statements filed by the parties, afresh, in accordance with law, within a period of three (03) months from the date of receipt of this Order.

12. It is made clear that an amount of Rs.10,000/- which was already granted by the learned Magistrate towards maintenance and Rs.7,000/-, granted by the learned Judge, Family Court, Nellore, towards maintenance, as held by the learned Magistrate in its Order, dated 09.12.2022 in DVC No.27 of 2016, shall be in force till the disposal of the DVC and the petitioner herein/husband shall continue to pay the aforesaid amounts, to the respondent Nos.1 and 2. In respect of other amounts, as ordered by the learned Magistrate in its Order, dated 09.12.2022 in DVC No.27 of 2016, it is made clear that such amounts are subject to the fresh disposal of the learned

Magistrate on furnishing the disclosure statements by either of the parties.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Revision Case shall stand closed.

Sd/- K TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VI Additional District and Sessions Court, Nellore, SPSR Nellore District.**(with records if any)**
2. The Special Judicial Magistrate of First Class for Trial of Prohibition and Excise Offences, Nellore, SPSR Nellore District
3. One CC to Sri. Sandeep Pamarati Advocate [OPUC]
4. One CC to Sri. S V Muni Reddy Advocate [OPUC]
5. Two CCs to the Public Prosecutor, High Court of Andhra Pradesh at Amaravathi [OUT]
6. The Section Officer, Criminal Section, High Court of Andhra Pradesh.
7. **Three CD Copies**

Stu

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HIGH COURT

DATED:25/02/2025

ORDER

CRLRC.No.600 of 2024



ALLOWING THE CRIMINAL REVISION CASE