

APHC010290042023



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

[3369]

THURSDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL REVISION CASE NO: 533/2023

Between:

K.sreekanth Naik

...PETITIONER

AND

P Nalini and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. SANDEEP BHAVAN PAMARATI

Counsel for the Respondent(S):

1. P NAGENDRA REDDY

2. PUBLIC PROSECUTOR (AP)

CRIMINAL REVISION CASE NO: 1098/2023

Between:

Smt.P.Nalini

...PETITIONER

AND

K Srekanth Naik and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. P NAGENDRA REDDY

Counsel for the Respondent(S):

1. SANDEEP BHAVAN PAMARATI

2. PUBLIC PROSECUTOR (AP)

The Court made the following COMMON ORDER:

1. Aggrieved by the order dated 22.12.2022 in F.C.O.P.No.183 of 2018 passed by the Judge, Family Court-cum-VII Additional District Judge, Ananthapuram (for short, 'the Family Court'), the Respondent/Husband in the F.C.O.P.No.183 of 2018 filed Crl.R.C.No.533 of 2013 questioning the correctness of the Order. In contrast, the Petitioner/Wife has filed Crl.R.C.No.1098 of 2023 not being satisfied with the maintenance amount granted by the Family Court. As both the Revisions arise out of order passed in F.C.O.P.No.183 of 2018, these Revisions are disposed of by common Order.
2. For the sake of convenience, the parties herein shall be referred to as they are stated in F.C.O.P.No.183 of 2018.
3. F.C.O.P.No.183 of 2018 was filed by the Petitioner-Wife, under section 125 of Criminal Procedure Code, 1973 (for short, 'Cr.P.C') seeking to grant a sum of Rs.20,000/- per month towards maintenance to her.
4. After considering the evidence presented by both parties and concluding the hearing, the Family Court has partly allowed the petition in favour of the Petitioner against the Respondent. Consequently, the Family Court has awarded Rs.15,000/- per month towards her maintenance.
5. During the hearing, it is brought to the notice of the Court that both parties have not complied with the directions of the Hon'ble Apex Court

enunciated in the judgment of **Rajesh V. Neha & Anr.**,¹ concerning the filing of affidavits disclosing the assets and liabilities. Considering the submissions made, I have gone through the observations in **Rajesh V. Neha** (cited supra) case. The said judgment has brought revolutionary change in the procedure to be followed by the Courts in dealing with the applications filed under Chapter IX of the Cr.P.C. The Hon'ble Supreme Court has issued comprehensive procedural and normative directions streamlining the maintenance laws, *inter alia*, directing that the parties in a maintenance application have to file affidavits of disclosure of their assets and liabilities, which must be considered by Courts while deciding the application. It is also held that, in case of a dispute on the declaration made in the affidavits of disclosure, the aggrieved person can seek leave of the Court to serve interrogatories on the opposite side and seek production of relevant documents as provided under Order 9 of the Code of Civil Procedure, and in case a false statement or misrepresentation is made, the Court can initiate proceedings under section 340 of the Cr.P.C., or for Contempt of Court.

6. The exposition of law in **Rajesh** case cited supra, was to remove the stumbling blocks in the procedure and the inordinate delay being caused in the disposal of maintenance applications and the enforcement of the orders.

7. The aforesaid Judgment in the case of **Rajesh** (cited supra) has been recently reiterated by the Hon'ble Supreme Court in the case of **Aditi alias**

¹(2021) 2 SCC 324

Mithi V. Jitesh Sharma² and expressing anguish over non-compliance/improper compliance of the directions laid down in case of **Rajnish** (*supra*) and directed re-circulation of the judgment for compliance thereof.

8. It is acknowledged that both parties have failed to submit the affidavits disclosing their assets and liabilities. Learned counsel for the Petitioner has relied on the decision of High Court of Patna in between **Gitanjali Devi @ Gitanjali Kumari V. State of Bihar and another**³, wherein, it is observed that the impugned order of granting maintenance amount is liable to be set aside for the reason that it has not followed the procedure prescribed by the Hon'ble Apex Court.

9. By following the principles laid down in the **Aditi alias Mithi's** case cited *supra*, the High Court of Madras in **Balram Dixit V. Smt. Kiran Dixit and another** (*Criminal Revision No.1255 of 2023, dated 17.01.2024*) also set aside the maintenance awarded by the learned Principal Judge, Family Court, Gwalior and further directed the both parties to submit fresh affidavits of disclosure of assets and liabilities with complete particulars in compliance with the directions of the Hon'ble Supreme Court laid down in the case of **Rajnish's** case cited *supra*.

10. Learned counsels representing both sides submit that because of lack of proper instructions, both parties could not comply with the directions of the

²2023 SCC OnLine SC 1451

³Criminal Revision No.736 of 2018, dated 02.12.2023

Hon'ble Apex Court and at present, they are ready to comply with the observations made in the judgments referred to supra, by filing the affidavits and both parties submits that the Respondent-husband is paying interim maintenance amount @ Rs.8,000/- per month vide orders dated 26.09.2019 in Crl.M.P.No.39 of 2019 in F.C.O.P.No.183 of 2018 and he is ready to pay such maintenance amount during the pendency of FCOPs and after its restoration.

11. In view of the same, this Court refrains from delving into the merits of the case at this juncture, as the impugned order passed in F.C.O.P.No.183 of 2018 is liable to be set aside for the reason that it has not followed the procedures prescribed by the Hon'ble Apex Court.

12. The impugned order passed in F.C.O.P.No.183 of 2018, is accordingly, set aside and the matter is remitted back to the learned Judge, Family Court – cum – VII Additional District Judge, Ananthapuramu for fresh consideration and by following the procedures which are laid down in the judgment of the Hon'ble Supreme Court.

13. This Court further directs the both parties to submit affidavits disclosing their assets and liabilities, giving complete particulars, in accordance with the directives of the Hon'ble Apex Court as laid down in the case of **Rajnes** (supra) before the Family Court. The Family Court must ensure strict adherence to these guidelines. If any of the affidavits are found to be lacking in necessary particulars, the learned Judge shall direct to produce the relevant information from the respective party.

14. The Family Court shall dispose of the F.C.O.P.No.183 of 2018 afresh after giving reasonable opportunity to both parties to let in further evidence, if any. In the meantime, the Respondent-husband is directed to pay maintenance amount of Rs.8,000/- per month to the Petitioner-wife till the disposal of the FCOP. Both parties are directed to bear their own costs.

15. With the directions provided above, the Criminal Revision Cases are ***disposed of*** accordingly.

Miscellaneous applications pending, if any, shall stand closed.

T. MALLIKARJUNA RAO, J

Date: 25.04.2023
SAK

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO

CRIMINAL REVISION CASE NOs: 533/2023 & 1098/2023

Date: 25.04.2023

SAK