

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL PETITION No.1920 OF 2013

Between:

Menti Trinadha Venkata Ramana,
S/o.Jogarao, Aged 47 years,
Hindu, Employee at Telecom Dept.,
C/o.Vaddela Prabhakararao's house,
Sudda Veedhi, Vizianagaram. --- Petitioner.

And

Menti Lakshmi,
W/o.Trinadha Venkata Ramana,
Aged 43 years, Hindu,
R/o.Dampuram (V),
Venkataramanapeta (PO),
S.Kota (M), Vizianagaram District
and two others. --- Respondents.

DATE OF ORDER PRONOUNCED : 09.09.2021

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE JOYMALYA BAGCHI

1. Whether Reporters of Local Newspapers
may be allowed to see the order? Yes/No
2. Whether the copy of order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wishes to
see the fair copy of the order? Yes/No

JOYMALYA BAGCHI, J

*** HON'BLE SRI JUSTICE JOYMALYA BAGCHI**

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and two others. --- Respondents.

! Counsel for the Petitioner : M/s.T.V.Sridevi

^ Counsel for Respondent No.3 : Additional Public Prosecutor

> Head Note:

? Cases referred:

- 1) 2002 (5) SCC 422
- 2) AIR (2020) SC 4355
- 3) AIR 1980 SC 1707

This Court made the following :

HON'BLE SRI JUSTICE JOYMALYA BAGCHI**CRIMINAL PETITION No.1920 OF 2013****(Proceedings taken up through video conferencing)****ORDER:**

1. The petitioner has assailed the order, dated 07.02.2013, passed in Criminal Revision Petition No.25 of 2012, by the learned District and Sessions Judge, Vizianagaram, wherein the learned Sessions Judge, dismissed the Revision Petition affirming the order, dated 14.03.2012, passed in Crl.M.P. No.1150 of 2011 in M.C. No.23 of 2001, by the learned Judicial Magistrate of I Class, S.Kota, for recovery of maintenance to the tune of Rs.22,000/- for a period of 11 months from 17.12.2009 to 16.11.2010 on the ground that the 2nd respondent, his daughter, had attained majority.

2. This Court takes note of the fact that the order of maintenance passed in favour of the 2nd respondent-daughter was not modified under Section 127 of Cr.P.C. and that his daughter is un-married and has no source of income. She is pursuing her education. However, it is argued that the order of maintenance would not survive as the girl has attained majority and this Court in exercise of its inherent jurisdiction ought to set-aside the order directing realization of dues payable to 2nd respondent after her attaining majority.

3. The issue which falls for decision is whether the learned Magistrate was justified to order recovery of maintenance dues to the tune of Rs.22,000/- for a period of 11 months from 17.12.2009 to 16.11.2010, payable to 2nd respondent, who is unmarried and is pursuing her education, on the ground she had attained majority.

4. While dealing with a similar issue in **Jagdish Jugtawat v. Manju Lata and others**¹, a three Judge Bench of the Hon'ble Apex Court held though a girl, on attaining majority, may not be entitled to maintenance from her parents under Section 125 of Cr.P.C., such right can be traced to Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 (for short, 'the Act of 1956') and on a combined reading of the two provisions, the Family Court is entitled to grant maintenance to an un-married daughter even after attaining majority, provided she is unable to maintain herself. However, the aforesaid observations in **Jagdish Jugtawat** (supra) were recently clarified by another three Judge Bench of the Hon'ble Apex Court in **Abhilasha v. Parkash and others**², wherein the Bench *inter alia* observed though a Family Court is entitled to grant maintenance to a major un-married girl by combining the liabilities under Section 125 Cr.P.C. and Section 20(3) of the Act of 1956, a Magistrate exercising powers under Section 125 of Cr.P.C. is not authorized to do so.

5. However, it may be apposite to note that the Magistrate is entitled to entertain an application under the Protection of Women from Domestic Violence Act, 2005 (for short, 'the DV Act') and grant monetary relief *i.e.*, to meet the expenses incurred and losses suffered by an aggrieved person under Section 20 of the DV Act, in the event of domestic violence by way of economic abuse is established. A conjoint reading of Section 2(a)³ and 2(f)⁴ of the DV Act would show that a daughter, who is or was living with her father in a domestic relationship by way of consanguinity, is entitled to seek reliefs including monetary relief on her own right as an

¹ 2002 (5) SCC 422

² AIR 2020 SC 4355

³ "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent

⁴ "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family

aggrieved person under Section 2(a) of the DV Act irrespective of the fact whether she is a minor or major. In the present case, the relationship between the parties as father and daughter is admitted and they had stayed together in a shared household. In view of the fact that the petitioner neglected to maintain the 1st respondent-wife and 2nd respondent-daughter, proceedings under Section 125 of Cr.P.C. came to be instituted and maintenance was awarded to respondents including to the 2nd respondent. As the award was not paid, the learned Magistrate issued the impugned order, dated 14.03.2012, directing recovery of maintenance to the tune of Rs.22,000/- for a period of 11 months from 17.12.2009 to 16.11.2010. In the aforesaid facts, the order of learned Magistrate may be traced to his powers to grant monetary relief under the DV Act and by a combined reading of the provisions of Section 125 of Cr.P.C. and Section 20 of the DV Act, the said order cannot be said to be illegal on the mere ground that the 2nd respondent had become a major. I am further fortified to arrive at such finding as the relief under the DV Act can be granted in addition to other reliefs available to the aggrieved person as envisaged under Section 26(2) of the DV Act.

6. In **Abhilasha** (2nd supra), the power of the Magistrate to grant monetary relief under the DV Act did not fall for consideration. It is settled law that a judgment is not an authority for a proposition which was neither raised nor argued in view of the law laid down by the Hon'ble Apex Court in **Rajput Ruda Meha and others v. State of Gujarat**⁵.

7. For the aforesaid reasons, this Court finds no reason to interfere with the impugned order. Accordingly, the Criminal Petition is dismissed. *Interim* order, if any, stands vacated.

⁵ AIR 1980 SC 1707

8. As a sequel, miscellaneous applications pending, if any, shall stand closed.

Date: 09-09-2021
Dsh

JOYMALYA BAGCHI, J