

APSR000007982024



**IN THE COURT OF JUDGE, FAMILY COURT-CUM-III  
ADDITIONAL DISTRICT & SESSIONS JUDGE, SRIKAKULAM.**

Present: Sri **Ch.Vivek Anand Srinivas**,  
Judge, Family Court-cum-III Additional District & Sessions Judge,  
Srikakulam

**TUESDAY, THIS THE SEVENTEENTH DAY OF JUNE, TWO  
THOUSAND AND TWENTY FIVE  
(17.06.2025)**

**Crl.R.P.No.14/2024**

Between:

Jarajana Krishna, s/o.late China Dalayya, aged 40 years, Hindu,  
Cooli, residing at Santhakaviti village in Santhakaviti mandal,  
Srikakulam District, present Vizianagaram District.

...Revision Petitioner/Respondent.

And :

1. Jarajana Bhavni, w/o.Krishna, aged 33 years, Hindu, working in  
Vidya Volunteer, M.P.P.School, residing at Santhakaviti village in  
Santhakaviti mandal in Srikakulam District, present Vizianagaram  
District.
2. The State of Andhra Pradesh, represented by the Additional Public  
Prosecutor, Srikakulam.

...Respondents/Petitioner.

This Revision petition is coming on 14.05.2025 for final hearing  
before me in the presence of Sri **K.Kondalarao**, Advocate for Revision  
Petitioner and of Respondent remained exparte, and having stood over till  
this day for consideration, this court made the following:

**ORDER**

**01.** The Petitioner in this Criminal Revision Petition is the Respondent in M.C.No.17/2015 on the file of Judicial Magistrate of First Class, Rajam.

**02.** This Criminal Revision Petition arises out of the Order dated 24.08.2022 passed in M.C.No.17/2015 on the file of learned Judicial Magistrate of First Class Court, Rajam wherein and whereby the Appellant, who is the Respondent in the said case was directed to pay Rs.3,000/- per month to the Petitioner from the date of petition.

**03.** For the sake of convenience, the parties will be arrayed as they are shown in the M.C.No.17/2015.

**04.** The brief averments of the petition in M.C.17/2015 are, that:

The Petitioner is the legally wedded wife of Respondent and their marriage was performed on 19.04.1999 at Santhakaviti village and at the time of marriage, the parents of Petitioner gave dowry and presentations to the Respondent and immediately after marriage, the Petitioner joined with the Respondent and stayed with him only for one month and as she is minor, disputes arose between them and cases were filed by both parties and the Petitioner filed a maintenance case against the Respondent, and Respondent filed MOP.21/2001 under section 9 of

Hindu Marriage Act and the court directed the Petitioner to join with the Respondent on or before 31.05.2014 and in the meanwhile the Respondent developed illegal intimacy with one Yagati Kala and deserted the Petitioner, and the Respondent and his parents harassed the Petitioner by demanding additional dowry and she gave complaint to police and a case was registered against the Respondent, and the Respondent also filed MOP.15/2014 for divorce and the same was dismissed and the Petitioner is living at her parents' house and the Petitioner joined in Multipurpose Health Worker at Hyderabad and completed the course in July 2017 and she came back to Santhakaviti and requested the Respondent to take back the Petitioner, but he refused for the same in spite of disputes raised before the elders and as the Respondent completely neglected to maintain the Petitioner and as the Petitioner is not having any source of income and the Respondent is a sarpanch of Santhakaviti village and also worked as a driver of a private bus and earning Rs.8,000/- per month and he is also having Ac.3.00 acres of wet and dry land and he is having sufficient means to pay maintenance to the Petitioner and hence, the petition.

**05.** The Respondent filed his counter and denied the petition allegations while admitting that the Petitioner is his wife and contended

that the mother of Petitioner is his close relative and he married the Petitioner without any dowry or presentations and the Petitioner and Respondent lived together only for few months and the Petitioner used to go away to her parents' house and the Petitioner left the company of Respondent in the year 1999 and when the Respondent requested the Petitioner to join marital life with him, she refused for the same and the Petitioner did not like to live in the joint family of the Respondent and the Respondent applied for Talayari post and the brother of Petitioner also applied for the same and the Petitioner insisted the Respondent to withdraw the said application, for which, the Respondent refused and the Petitioner bore grudge against the Respondent and voluntarily left the company of the Respondent and went away to her parents' house and the Respondent raised dispute before the elders, but the Petitioner refused to join the Respondent and he filed MOP.21/2000 under section 9 of Hindu Marriage of restitution of conjugal rights before the Senior Civil Judge's Court, Rajam and the same was allowed on 14.03.2012 and the Petitioner filed criminal case under section 498A of Indian Penal Code in C.C.No.255/2019 on the file of Judicial Magistrate of First Class, Rajam and the same was ended in acquittal and the Respondent sent legal notice to the Petitioner as per the Orders of the court for restitution of conjugal lights and the Petitioner received the said notice and gave reply

with false allegations and he filed divorce petition before the Senior Civil Judge's Court, Rajam in MOP.15/2004 and the said petition was dismissed, as the Petitioner has no interest to lead conjugal life with the Respondent and as she voluntarily left the company of the Respondent about 20 years back, she is not entitled for any maintenance from the Respondent and that the Petitioner is working as Village Volunteer and getting salary of Rs.2,000/- per month and that she is not entitled for any maintenance and prayed to dismiss the petition.

**06.** To prove their respective contentions, on behalf of Petitioner P.Ws.1 to 3 were examined and no documents were marked. On behalf of Respondent, R.Ws.1 to 3 were examined and Exs.R1 to R4 were marked. After conclusion of the enquiry and after considering the oral and documentary evidence on record, the learned Magistrate allowed the petition in M.C.No.17/2015 granting Rs.3,000/- to the Petitioner towards her monthly maintenance from the respondent.

**07.** Aggrieved by the said order, the present Revision Petition was preferred by the Petitioner questioning the legality and validity of the impugned order of granting maintenance to the Petitioner.

**08.** When the Revision petition came up for hearing before this court, this court, this court heard the arguments of learned Counsels for the Revision Petitioner and Respondent remained exparte.

**09.** Now, the points that emerge for determination in this Revision Petition are;

**1). Whether the Respondent is the wife of Revision Petitioner, whether the Revision Petitioner refused and neglected the Respondent, whether the Revision Petitioner has sufficient means to maintain the Respondent and whether the Respondent is unable to maintain herself, and whether the Respondent is entitled for monthly maintenance from the Revision Petitioner or not?**

**2). Whether the impugned order of the trial court is sustainable under law and whether it warrants interference of this court, if so, to what relief?**

**POINT No.1:**

**10.** At the outset, the petition in M.C.No.17/2015 was filed to grant monthly maintenance to the Petitioner. On behalf of the Petitioner, P.Ws.1 to 3 were examined and no documents were marked. On behalf of the Respondent, R.Ws.1 to 3 were examined and Exs.R1 to R4 were marked. P.W.1 is the Petitioner, P.W.2 is the uncle of Petitioner and P.W.3 is the

mother of Petitioner. R.W.1 is the Respondent, R.W.2 is the elder on behalf of Respondent and R.W.3 is the witness on behalf of Respondent. Ex.R1 is certified copy of docket order in M.C.1/2016, Ex.R2 is the certified copy of Order in HMOP.49/2014, Ex.R3 is the duty certificate issued by LFL, as Headmaster, Santhakaviti, and Ex.R4 is the appointment details of the Petitioner issued by M.P.D.O, Santhakaviti.

**11.** To claim maintenance under section 125 Criminal Procedure Code, it is to be established that the Petitioner is the wife of the Respondent. As can be seen from the pleadings of both parties and the evidence let in by both the parties, it is an undisputed fact that the Petitioner is the wife of Respondent. Hence, it is held that the Petitioner is the wife of Respondent.

**12.** Now, it is to be seen, whether the Respondent refused and neglected to maintain the Petitioner and whether the Petitioner is living separately from the Respondent without any sufficient grounds. It is the contention of the Petitioner that her marriage with the Respondent was performed on 19.04.2019 and that she was minor by that time and that she was living with the Respondent only for one month and due to disputes between them she is residing at her parents' house and she filed

a maintenance case against the Respondent, and the Respondent also filed MOP.21/2021 for restitution of conjugal rights against her and the same was allowed and thereafter the Respondent developed illegal intimacy with one Yagati Kala and deserted her and failed to take her back for marital life in spite of repeated demands made by her and also after disputes raised before elders. The Petitioner as P.W.1 also testified the same before the court. On the other hand, it is the contention of the Respondent and also his evidence as R.W.1 that after the marriage, the Petitioner resided with him only for one month and thereafter went away to her parents' house voluntarily and thereafter failed to join him for marital life in spite of his best efforts and he filed MOP.21/2021 on the file of Senior Civil Judge's Court, Rajam and the same was allowed, but the Petitioner did not join marital life even after passing the said order and the Petitioner filed maintenance case against him under Ex.R1 in the year 2006 and the same was dismissed and she also filed a petition for restitution of conjugal rights against him under Ex.R2 which is also dismissed on merits, and the Petitioner failed to lead marital life with him and voluntarily left the company without any reasonable cause and that the Petition is not maintainable under law. On behalf of the Petitioner, she also examined P.Ws.2 and 3, who are her uncle and mother, who

supported the case of Petitioner and on behalf of Respondent, he examined R.Ws.2 and 3, who supported the case of Respondent.

**13.** Now, as can be seen from the petition pleadings, it shows that the marriage of Petitioner with Respondent was performed in the year 1999. The petition contents shows that the Petitioner and Respondent lived together only for one month after the marriage and thereafter the Petitioner is residing at her parents' house. It is the contention of the Petitioner that the Respondent and his parents harassed her by demanding additional dowry. But P.Ws.1 to 3 admitted that the criminal case filed by petitioner against Respondent in CC.255/1999 under section 498A of Indian Penal Code ended in acquittal and also the petition filed by the Petitioner claiming maintenance in M.C.No.1/2006 was also dismissed and that the petition filed by the Respondent in MOP.21/2001 against the Petitioner for restitution of conjugal rights was allowed. It is the case of Respondent that even after issuance of legal notices after passing orders by the court in MOP.21/2001 the Petitioner failed to join marital life with him. So, the admissions of P.Ws.1 to 3 show that previously the Petitioner filed a maintenance case under Ex.R1 and the same was dismissed and she also filed a petition for restitution conjugal rights under Ex.R2 and the same was also dismissed, but the Petitioner

did not prefer any revision or appeal on the said Orders and allowed them to attain finality. The evidence of P.Ws.1 to 3 also show that the Petitioner filed a criminal case under section 498A of I.P.C against the Respondent and the same was also ended in acquittal. So, when the previous petition for maintenance filed by the Petitioner was dismissed and the petition filed by the Petitioner for restitution of conjugal rights against the Respondent was also dismissed, it shows that the Respondent is living away from the Petitioner by showing sufficient cause. Moreover, the Petitioner failed to place any evidence before the court to show that she is residing separately from the Respondent by showing the sufficient grounds. No iota of evidence was placed by the Petitioner before the court to show that she is residing separately from the Respondent by showing any valid cause. P.W.3, the mother of Petitioner admitted that the Petitioner is residing at her house since 20 years. She also admitted that she did not send the Petitioner for marital life with the Respondent even after passing order by the court for restitution of conjugal rights. So, it shows that the Petitioner is living away from the Respondent without any sufficient cause and that she voluntarily left the company of the Respondent without any sufficient cause.

**14.** On the other hand, the Respondent filed a petition for restitution of conjugal rights against the Petitioner and the same was allowed which shows that the Respondent has made all efforts to bring back the Petitioner to lead conjugal rights with him. But the Petitioner did not join conjugal life with the Respondent even after passing order by the competent court for restitution of conjugal rights. So, it shows that the Respondent did not refuse and neglect to maintain the Petitioner and it is the Petitioner who voluntarily left the company of the Respondent without any reasonable cause and also after passing orders by Senior Civil Judge's Court, Rajam for restitution of conjugal rights. Hence, it is held that the Petitioner voluntarily left the company of the Respondent without any sufficient cause and the Respondent never refused and neglected the Petitioner.

**15.** Now, it is to be seen whether Respondent has sufficient means to maintain the Petitioner and whether the Petitioner is unable to maintain herself and whether the Petitioner is entitled for monthly maintenance from the Respondent. It is the Case of the Petitioner that the Respondent is having Ac.3.00 of land and he is working as a bus driver and earning Rs.8,000/- per month, but no evidence let in by the Petitioner to prove the same. On the other hand, the Respondent filed Exs.R3 and R4 to show

tht the Petitioner is worked as Village Volunteer and receiving monthly salary. The same was admitted by P.Ws.1 to 3 in their cross-examination. So, it shows that the Petitioner is having means to maintain herself. Though the Respondent is an able bodied person and if he really refused and neglected to maintain Petitioner, he is bound to maintain his wife by paying maintenance. But in view of the discussion made supra, wherein it is held that the Petitioner voluntarily left the company of the Respondent and that the Respondent never refused and neglected to maintain the Petitioner and that the Petitioner failed to join conjugal life with the Respondent even after passing order of restitution of conjugal rights by the court in MOP.21/2001, it is held that the Petitioner is not entitled for any maintenance from the Respondent as she voluntarily left the company of Respondent without any reasonable cause and failed to join with the marital life even after passing of the order in MOP.21/2001 by the Senior Civil Judge's Court, Rajam for restitution of conjugal rights. Hence, it is held that the Petitioner is not entitled to claim any maintenance from the Respondent, as prayed for.

**POINT No.2: 2). Whether the impugned order of the trial court is sustainable under law and whether it warrants interference of this court, if so, to what relief?**

**16.** Now, as can be seen from the discussion made supra and also the finding arrived at while answering point No.1, it is held that the trial court erred on facts and law and allowed the petition in MC.No.17/2015 without considering the facts and law in the case. Hence, it is held that the impugned order passed by the trial court in M.C.17/2015 is not sustainable under law and warrants interference by this court and the Order passed in M.C.17/2015 is liable to be set aside. Accordingly, the point is answered.

**17.** In the result, the Criminal Revision Petition is allowed setting aside the Order passed by the learned Judicial Magistrate of First Class, Rajam dated 24.08.2022 in M.C.17/2015 and consequently the M.C.No.17/2015 is dismissed. In the circumstances of the case, both parties do bear their own costs.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in open court, this the 17<sup>th</sup> day of June, 2025.

***Sd/-Ch.vivek Anand Srinivas***  
Judge,  
Family Court-cum-III Additional District &  
Sessions Judge, Srikakulam

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**For Revision Petitioner:**

**For Respondent:**

No oral or documentary evidence is adduced on either side.

***Sd/-Ch.vivek Anand Srinivas***  
Judge,  
Family Court-cum-III Additional District &  
Sessions Judge, Srikakulam.