

APHC010255282019



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

[3396]

FRIDAY, THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL REVISION CASE NO: 896/2019

Between:

1. CHILAKALAPUDI VIGNAN KUMAR, S/O. KOTESWARA RAO, HINDU, LORRY BODY BUILDING WORK, R/O. PENDURTHI VILLAGE AND MANDAL, VISAKHAPATNAM DISTRICT.

...PETITIONER

AND

1. CHILAKALAPUDI ESTER RANI, W/O. CH. VIGNAN KUMAR, D/O. ODUGU PICHIAIAH, HINDU, AGED 26 YEARS, HOUSE WIFE, R/O. RANADEER NAGAR, KRISHNALANKA, VIJAYAWADA.
2. CHILAKALAPUDI DEVA PAUL, S/O. CH. VIGNAN KUMAR, AGED 6 YEARS, STUDENT, R/O. RANADEER NAGAR, KRISHNALANKA, VIJAYAWADA.
3. CHILAKALAPUDI SOWMYA VASHINI, D/O. CH. VIGNAN KUMAR, HINDU, AGED 4 YEARS, (RESPONDENTS 2 AND 3 ARE BEING MINORS, REP BY THEIR MOTHER AND NATURAL GUARDIAN 1ST RESPONDENT)
4. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to Pleased to set aside

the judgment dated 25-09-2018 made in M.C No 206/2017 on the file of the court of XIV Additional District and sessions Judge cum Additional and Sessions Judge cum Additional Family Judge Vijayawada and pass

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to condone the delay of 200 days in filing the above appeal and pass

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to stay of all further proceedings in Dated 25-09-2018 made in M.C No 206/2017 on the file of in the court of XIV Additional District and sessions Judge cum Additional and Sessions Judge cum Additional Family Judge Vijayawada pending disposal of the main criminal appeal and to pass

Counsel for the Petitioner:

1.Y KOTESWARA RAO

Counsel for the Respondent(S):

1.PUBLIC PROSECUTOR (AP)

2.

The Court made the following:

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA**CRIMINAL REVISION CASE NO: 896/2019****ORDER:**

This Criminal Revision Petition is filed seeking to set aside the judgment dated 25.09.2018 passed in M.C. No. 206 of 2017 on the file of the Court of the XIV Additional District and Sessions Judge-cum-Additional Family Judge, Vijayawada, whereby maintenance at the rate of Rs.5,000/- per month each was awarded to respondent Nos.1 to 3.

2. Sri Y.Koteswara Rao, learned counsel for the revision petitioner would submit that the learned Judge failed to appreciate the material on record in proper perspective and granted maintenance without considering the income of the petitioner/husband. It is further contended that respondent No.1/wife was living in adultery and, therefore, she is not entitled to claim maintenance. On the above grounds, learned counsel prayed to set aside the impugned order and allow the revision petition.

3. Despite service of notice, none appeared on behalf of respondent Nos.1 to 3.

4. Considering the submissions and a fair look at the material placed on record, the impugned order would show that the petitioner herein being the husband lodged a case against the wife that she is living

adultery and not entitled to claim maintenance. Admittedly the marriage between the petitioner/husband and respondent No.1/wife was solemnized on 08.08.2012. Out of the wedlock, respondent Nos.2 and 3 were born on 07.05.2013 and 16.08.2014 respectively. There is no dispute with regard to the marital relationship or the birth of the children during the subsistence of the marriage. The petitioner/husband raised a plea disputing the paternity of the children and filed an application under Section 45 of the Indian Evidence Act seeking DNA examination. However, it is evident from the record that though such an application was filed, the petitioner did not choose to pursue the same. The learned Family Judge observed that the said application remained unprosecuted for reasons best known to the petitioner. In the absence of any contrary evidence and in the light of Section 112 of the Indian Evidence Act, the children born during the subsistence of a valid marriage are presumed to be legitimate. The petitioner having failed to substantiate his plea by pursuing the application for DNA examination, cannot now be permitted to dispute the paternity of respondent Nos.2 and 3. Admittedly, a case has been lodged against him for the alleged offence punishable under Section 498-A IPC. The wife alleged that the petitioner was addicted to bad vices and harassed her by suspecting her fidelity. The learned Judge, upon appreciation of the evidence, recorded findings that the wife was subjected to harassment. There is no dispute about the fact that,

coming to the financial capacity of the husband, admittedly he is working in body building works. The learned Judge, after considering the facts and circumstances of the case, rightly appreciated the evidence on record and granted maintenance of Rs.5,000/- per month each to respondent Nos.1 to 3.

5. This Court does not find any illegality, irregularity, or perversity in the findings recorded by the learned Family Judge warranting interference in exercise of revisional jurisdiction.

6. Accordingly, the Criminal Revision Petition is dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in this revision shall stand dismissed.

Dr. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date: 20.02.2026
KKV

HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

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CRIMINAL REVISION CASE NO: 896/2019

Dated 20.02.2026

KKV

HIGH COURT OF ANDHRA PRADESH:: AMARAVATI
MAIN CASE NO.: CRIMINAL REVISION CASE NO: 896/2019

PROCEEDING SHEET

Sl. No.	Date	ORDER	OFFICE NOTE
	20.02.2026	<u>Dr.VJP,J</u> The Criminal Revision Case is dismissed (vide separate order) _____ Dr.VJP,J KKV	