

APHC010599232015



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

[3560]

THURSDAY, THE FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 649/2015

Between:

1. GARUGUMALLI PRATHIBHA RANI, KRISHNA DT & ANR., W/O KISHORE KUMAR @ KISHORE, D/O KONDAPALLI BASAVAIAH, OCC: HOUSEWIFE, C/O CHENNU VENAKANNA, D.NO.7-125, JANDA CHETTU CENTRE, YENIKEPADU, VIJAYAWADA RURAL, KRISHNA DISTRICT.
2. GARUGUMALLI LOHITH RAJU, S/O KISHORE KUMAR @ KISHORE, AGED 8 YEARS, (2ND PETITIONER BEING MINOR REP. BY HIS NATURAL GUARDIAN AND 1ST PETITIONER)

...PETITIONER(S)

AND

1. STATE OF AP REP PP AND ANR, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF A.P., HYDERABAD.
2. GARUGUMALLI KISHORE KUMAR KISHORE, S/O KANAKA RAJU, OCC: BUSINESS, R/O MIG 46, AUTONAGAR COLONY, VIJAYAWADA 7, KRISHNA DISTRICT.

...RESPONDENT(S):

Revision filed under Section 397/401 of Cr.P.C., praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to call for records and set aside the order passed in M.C. No.191/2011 on the file of the Family Court-cum-IV Additional District and Sessions Judge's Court at Vijayawada, Krishna District, dated 29-01-2015 as per as not granting maintenance to the 1st petitioner and

to direct the respondent/husband to pay maintenance as prayed for and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

IA NO: 1 OF 2015(CRLRCMP 1074 OF 2015)

Petition under Section 151 C.P.C., praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim maintenance to the petitioner at the rate of Rs.5000/- per month, pending disposal of above Crl. Revision Case and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner(S):

1.CHALLA AJAY KUMAR

Counsel for the Respondent(S):

1.S BALA MOHAN RANGA

2.PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**CRIMINAL REVISION CASE NO: 649 of 2015****ORDER:**

1. Petitioners 1 and 2 filed an application under Section 125 of Criminal Procedure Code (for short Cr.P.C) before the learned court below against the Respondent being M.C.No.191 of 2011 on the ground that the respondent being the husband of Petitioner No.1 has deserted the petitioner, no maintenance were provided to the Petitioner No.1 and 2, accordingly he prayed for maintenance in respect of petitioners No .1 and 2. During the disposal of application under Section 125 Cr.P.C., the learned trial court framed three points for recognition. After discussion of evidences and after hearing the parties, the learned trial court has directed the respondent to pay maintenance an amount of Rs.3,000/- (Three thousand only) in favour of Petitioner No.2 only. Petitioner No.1 was not ordered to pay any maintenance. Hence, this Criminal Revision Case (for short Crl.R.C).

2. Learned counsel for the petitioner submits that though learned trial court has framed three points for determination but he actually only decided point No.1. Point No.2 and 3 not properly decided, thereby the Order passed by the learned trial court is illegal and improper Order.

3. Learned Counsel for the Respondent submits that the fact suggests that the Petitioner No.1 being wife had herself left the house of Respondent and started living with another person. The entire fact was properly elicited before the learned Court below in the cross examination of

PW.1. He further submits that P.W.2 who is the independent witness also supported the fact that petitioner No.1 has left the house of respondent on her own volition and started living with another person. Such fact being appeared before the learned trial court, the learned trial court denied to provide maintenance in favour of Petitioner No.1. He submits that there are no illegality in the order passed by learned court below. Hence, instant Crl.R.C., is liable to be dismissed.

4. Heard learned counsel for parties. Perused the order passed by learned trial court.

5. In deciding an application under Section 125 Cr.P.C., petition, the learned Trial Court has framed three points for determination they are:

1. Whether the Petitioners are neglected by the Respondent?
2. Whether the Petitioner are unable to maintain themselves?
3. Whether the Petitioners are entitled for maintenance as prayed for?

6. From the entire Order passed by learned Court below, it appears that the learned Court below has vividly discussed Point No.1 and has observed that the Petitioner No.1 has failed to establish that Respondent neglected her. Points No.2 and 3 were decided by learned Trial Court on the basis of point No.1. Point No.2 was framed as; Whether the Petitioners are unable to maintain themselves? In deciding said point, learned Court below has held that 1st Petitioner was not entitled to maintenance on the basis of point No.1. On plain perusal of the discussion of point No.2, it appears that the learned Trial Court though not properly dealt with point No.2 that whether

Petitioner No.1 was unable to maintain herself, but, the decision for providing maintenance under Section 125 Cr.P.C., by husband to his wife is only basis of the fact that whether the husband has deserted the wife. In this case, the fact has been proved before the learned Trial Court that the Respondent being the husband never deserted the Petitioner No.1. Rather, the established fact that Petitioner No.1 on her own volition living with another person. When the Petitioner No.1 is living with another person, the scope under Section 125 Cr.P.C., for giving maintenance is remote, whether the Petitioner No.1 is entitled to maintain herself or not is immaterial, as she is living with another person peacefully and happily. Thus, in my view, the learned Trial Court though not properly decided points 2 and 3, according to the points framed, but in the point No.1 he has made a detailed discussion, which covers points No.2 and 3. Thus, on the points No.2 and 3 though has not separately discussed, but it was discussed within Point No.1. Thus, a plain perusal of the Order of the learned Trial Court, I find no justification to interfere with the decision of the Trial Court.

7. Accordingly, instant Criminal Revision Case is dismissed as devoid of merits.

Accordingly, pending miscellaneous applications, if any, shall stand closed.

JUSTICE SUBHENDU SAMANTA

Dated:04.12.2025.
KS1/SSA

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THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

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DATED:04.12.2025.

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