



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 8<sup>TH</sup> DAY OF FEBRUARY, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY**

**CRIMINAL REVISION PETITION NO. 100389 OF 2023 (397)**

**BETWEEN:**

SRI. REVADI RAGHAVENDRA  
S/O. SRINIVAS SHETTY,  
AGE: 57 YEARS, OCC. SELF EMPLOYED,  
R/O. 11<sup>TH</sup> WARD, NEAR AXIS BANK,  
MARIYAMMANAHALLI, TQ. HOSAPETE,  
DIST. VIJAYANAGAR-583222.

...PETITIONER

(BY SRI MRUTYUNJAY TATA BANGI, ADVOCATE)

**AND:**

1. SMT. B. HULIGEMMA  
D/O. ERAMMA AND W/O. REVADI RAGHAVENDRA,  
AGE: 45 YEARS,  
OCC. DEVADASI ANGANWADI TEACHER,  
R/O. 8<sup>TH</sup> WARD, MARIYAMMANAHALLI,  
TQ. HOSAPETE, DIST. VIJAYANAGAR-583222.

2. MISS. VIJAYALAXMI D/O. HULIGEMMA  
D/O. REVADI RAGHAVENDRA SHETTY,  
AGE: 24 YEARS, R/O. 8<sup>TH</sup> WARD,  
MARIYAMMANAHALLI, TQ. HOSAPETE,  
DIST. VIJAYANAGAR-583222.

...RESPONDENTS

(BY SRI B. G. INDI, ADVOCATE FOR R1 AND R2)

THIS CRIMINAL REVISION PETITION IS FILED U/S 397 R/W 401 OF CR.P.C., SEEKING TO CALL FOR RECORDS AND SET ASIDE THE IMPUGNED ORDER DATED 28.08.2023 PASSED BY THE III ADDL. DISTRICT AND SESSIONS JUDGE, BALLARI SITTING AT HOSAPETE IN CRIMINAL APPEAL NO. 5046/2023 CONFIRMING THE ORDER ON IA. NO.I GRANTING INTERIM MAINTENANCE IN





CRIMINAL MISCELLANEOUS NO.157/2023 PASSED BY THE III ADDL. CIVIL JUDGE AND JMFC, HOSAPETE BY ALLOWING THE PRESENT CRIMINAL REVISION PETITION.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

This revision petition under Section 397 read with Section 401 of Cr.P.C. is filed by the petitioner challenging the order dated 20.02.2023 passed by the Court of III Additional Civil Judge and JMFC, Hospet in Criminal Miscellaneous No.157/2023, wherein interim exparte monthly maintenance of Rs.2,000/- to respondent No.1 and Rs.1,500/- to respondent No.2 and legal expenses of Rs.2,000/- to the respondents was awarded from the date of petition until further orders. The said order was confirmed in Criminal Appeal No.5046/2023 by the Court of III Additional District and Sessions Judge, Ballari vide order dated 28.08.2023. Assailing the aforesaid two orders, the petitioner is before this Court.

2. Learned counsel for the petitioner submits that on the very same date the respondents herein had initiated parallel proceedings under Section 125 of Cr.P.C. before



the Trial Court in Criminal Miscellaneous No.156/2023 and in the said proceedings, exparte interim maintenance of Rs.5,500/- has been awarded to the respondents herein and the petitioner has been complying the said order. He submits that since it is an exparte order, petitioner may be given an opportunity to seek vacation/modification of the order and this revision may be disposed off with a liberty to the petitioner to file an application seeking modification of the order passed by the Trial Court and till then the order passed by the Trial Court in the present proceedings may be kept in abeyance.

3. Learned counsel appearing for the respondents has opposed the prayer made by the petitioner. He submits that even in the proceedings initiated under Section 125 of the Cr.P.C., the petitioner has not paid the interim maintenance amount and he is still in arrears. Accordingly, he prays to dismiss the petition.

4. From the material available on record and based on the submissions made by the learned counsel for the parties, it can be gathered that the respondents herein



had filed two separate proceedings before the trial Court on the same day Criminal Miscellaneous No.156/2023 was filed under Section 125 of Cr.P.C. and Criminal Miscellaneous No.157/2023 was filed under Section 12 of Protection of Women From Domestic Violence Act, 2005 (for short, 'the DV Act'). In the proceedings filed under Section 125 of Cr.P.C., the Trial court has awarded the interim maintenance of Rs.5,500/- to the respondents herein and in the proceedings filed under Section 12 of the DV Act, the respondents herein have been awarded a monthly interim maintenance of Rs.3,500/-.

5. Learned counsel for the petitioner has submitted that he has deposited certain amount before the Trial Court in the proceedings bearing Criminal Miscellaneous No.156/2023, which is not seriously disputed by the learned counsel for the respondents.

6. Undisputedly, the orders passed in both proceedings are exparte orders. The petitioner has filed this revision petition after availing free legal aid service, which itself would go to show that he is not financially



sound. Under the circumstances, I am of the considered opinion that the petitioner needs to be given an opportunity to file his objections before the trial Court in proceedings bearing Criminal Miscellaneous No.157/2023 and if so advised to seek modification of the order and till the application is considered, the order impugned passed by the trial Court in Criminal Miscellaneous No.157/2023 needs to be kept in abeyance. Accordingly, the following :

ORDER

(i) Criminal revision petition is disposed off.

(ii) Petitioner is given an opportunity to file objections as well as necessary application before the Trial Court in Criminal Miscellaneous No.157/2023 on the next date of hearing and if such an objection and application under Section 25(2) of the DV Act is filed by the petitioner, the Trial Court shall consider the same and dispose it off on the merits of the case within a period of one month from the date of filing of the application. Till then the impugned order passed in Criminal Miscellaneous No.157/2023 shall be kept in abeyance.



(iii) It is made clear that in the event the petitioner does not file any application as observed hereinabove before the Trial Court on the next date of hearing, this order will not enure to his benefit.

In view of disposal of the revision petition, pending application, if any does not survive for consideration.

**Sd/-**  
**JUDGE**

CKK  
List No.: 1 Sl No.: 33