

**(1996) 04 AP CK 0042**

**In the Andhra Pradesh High Court**

**Case No : Criminal Petition No. 6071 of 1995**

Kola Keshava Reddy

APPELLANT

Vs

Kola Anantha Lakshmi and Others

RESPONDENT

**Date of Decision : 18-04-1996**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 397(2), 399, 399(3), 482

**Citation :** (1996) 2 ALD(Cri) 79 : (1996) 1 ALD(Cri) 683 : (1996) 2 ALT(Cri) 320 : (1997) CriLJ 933 : (1996) 2 DMC 250 : (1997) 2 RCR(Criminal) 533

**Hon'ble Judges :** K.B. Siddappa, J

**Bench :** Single Bench

**Advocate :** M.S.N. Prasad, for the Appellant; Y. Subba Reddy, for the Respondent

## **Judgement**

1. This petition is filed to quash the order passed by the Addl. Judicial Magistrate of First Class, Addanki, in M.C. No. 5 of 1994, dated 22-3-1995 and also the order passed by the Sessions Judge, Prakasham District, Ongole, in CrI.R.P. No. 19 of 1995, confirming the order of the trial Court.

2. The 1st respondent filed M.C. No. 5/94 on the file of the Additional Judicial Magistrate of First Class, Addanki, for maintenance u/S. 125(1) Cr.P.C. claiming maintenance at the rate of Rs. 500/- p.m. towards her maintenance and also Rs. 400/- each to the petitioners 2 and 3 towards their monthly maintenance. That petition was allowed granting maintenance at the rate of Rs. 400/- per month to the 1st respondent herein and Rs. 350/- to the 2nd respondent and also Rs. 300/- to the 3rd respondent from the date of petition i.e. 28-3-1994. Aggrieved by the said order, the petitioner herein had preferred Criminal Revision Petition No. 19/1995 on the file of the Sessions Judge, Prakasham District, Ongole. The learned Sessions Judge, after considering the merits of the case dismissed the revision with no costs.

3. Aggrieved by the said order in the revision, this petition u/S. 482, Cr.P.C. to quash the order of the lower Court is filed. The learned counsel appearing for the respondents herein submitted that by virtue of S. 399(3), Cr.P.C. no further

proceedings by way of revision at the instance of such person shall be entertained by the High Court or any other Court, therefore, the petitioner herein having failed in the revision before the Sessions Judge cannot file this proceeding u/S. 482, Cr.P.C.

4. In support of his contention, he relied upon the judgments in Dharampal and others Vs. Smt. Ramshri and others, and Deepti alias Arati Rai Vs. Akhil Rai and Others, ."

5. I see considerable force in the submission of the learned counsel for the respondents. The petitioner herein had failed in the revision filed by him before the Sessions Court. Ordinarily, no further proceedings are maintainable by virtue of the above mentioned judgments. However, learned counsel for the petitioner brought to my notice a judgment of my learned brother Justice V. Rajagopala Reddy reported in D. Laskhmana Rai v. E. Kamala Bai (1996) 1 ALT 29. In this case he considered the scope of the judgment of the Supreme Court in Ganesh Narayan Hegde Vs. S. Bangarappa and Others, . In that case the Supreme Court held (at p. 2938 of Cri LJ) :-

"While it is true that availing of the remedy of the revision to the Sessions Judge under S. 399 does not bar a person from invoking the power of the High Court under S. 482, it is equally true that the High Court should not (sic) as a Second Revisional Court under the garb of exercising inherent powers. While exercising its inherent powers in such a matter it must be conscious of the fact that the learned Sessions Judge has declined to exercise his revisory power in the matter. The High Court should interfere only where it is satisfied that if the complaint is allowed to be proceeded with, it would amount to abuse of process of Court or that the interests of justice otherwise call for quashing of the charges".

6. Therefore, there cannot be any doubt in respect of the prohibition to file further revision against the revisional orders of the Sessions Judge. However, the High Court certainly has power u/S. 482 of the Code of Criminal Procedure to entertain proceedings when it finds that if the complaint is allowed to be proceeded with, it would amount to abuse of process of Court or that the interest of justice otherwise call for quashing of the charges.

7. My learned brother Justice Vada Rajagopala Reddy, with whom I entirely agree also held that the extra-ordinary jurisdiction of the High Court can be exercised u/ S. 482, Cr.P.C. to correct any abuse of the process of Court. It is necessary to see in a given case whether the provisions u/S. 482, Cr.P.C. are invoked to circumvent the provisions of S. 397(2) or 399(3), Cr.P.C. and to convert this Court as a Second Revisional Court.

8. In the case on hand, both the Courts considered the quantum to be granted. They have given certain amounts to the respondent. The present revision is certainly an attempt to convert this Court as a Secondary Revisional Court. Such attempt cannot be allowed to fructify. There is no abuse of process of Court. Therefore, this Court cannot interfere while exercising powers u/S. 482 of the

Code of Criminal Procedure.

9. There are no merits in the petition. Hence the petition is dismissed.

10. Petition dismissed.