

MONDAY THE TWENTIETH DAY OF NOVEMBER  
ONE THOUSAND NINE HUNDRED AND NINETY FIVE

:PRESENT:

THE HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY

CRIMINAL PETITION NO. 549 OF 1993

1. Pakalapati Lakshmi.  
2. Pakalapati Jogi Raju.

.. PETITIONERS.

versus.

1. Pakalapati Suryanarayana.  
2. The State of A.P., rep. by  
Public Prosecutor.

.. RESPONDENTS.



Petition under sec. 561.A of CPC 1898 praying that in the circumstances stated in the Memo. of grounds, the High court will be pleased to call for the records in M.C.No.6/88 on the file of Sub Divisional Magistrate, Rampachodavaram as confirmed by the order in Crl. Revision Petition No. 97/89 of the file of II Additional Sessions Judge, E.G. Dist, at Rajahmundry and quash the same and grant maintainance to the petitioners 1 & 2 @ 300/- and 200/-per month respectively with effect from the date of application and costs.

The petition coming on for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. A. RAMALINGESWAR RAO, Advocate for the petitioners and of the PUBLIC PROSECUTOR on behalf of the state and of Mr. K. L. N. SWAMY, Advocate for the 1st respondent - the court made the following:-

ORDER:

This petition is filed under section 561-A of Cr.P.C. 1898, (S.397 of the present code). The case of the first petitioner is that the respondent promised to marry her and had illicit intimacy with her resulting in conception and the birth of second petitioner. Ultimately, the respondent had not married her. She filed M.C.No.6/88 on the file of Sub -Divisional Magistrate, Ramachandrapuram against the respondent for maintenance Under section 125 of the code claiming maintenance at @ Rs. 300/- for the first petitioner and R. 200/- For the second petitioner; which ended in .....

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dismissal. Questioning that order, she filed Criminal Revision Petition 97 of 1989 before the IInd Addl. Sessions Judge, East Godavari. Both the courts held that the first petitioner had not been able to establish her illicit intimacy with the respondent and the paternity of the second petitioner.

Admittedly, the first petitioner did not claim to be the wife of the respondent. Therefore, she is not entitled to any maintenance Under Section 125 of Cr.P.C.

Therefore, a strong evidence is necessary to show the paternity of the second petitioner. In this case, except the evidence of the first petitioner, there is no other evidence in support of her case. It has been held in the case of VEDANTHACHARI VS MARIE reported in 1926 Madras Page 113 that the sole testimony of the unmarried mother, without corroboration, cannot be relied upon for the proof of paternity of the father. In this case, the court below also relied upon a judgement reported in

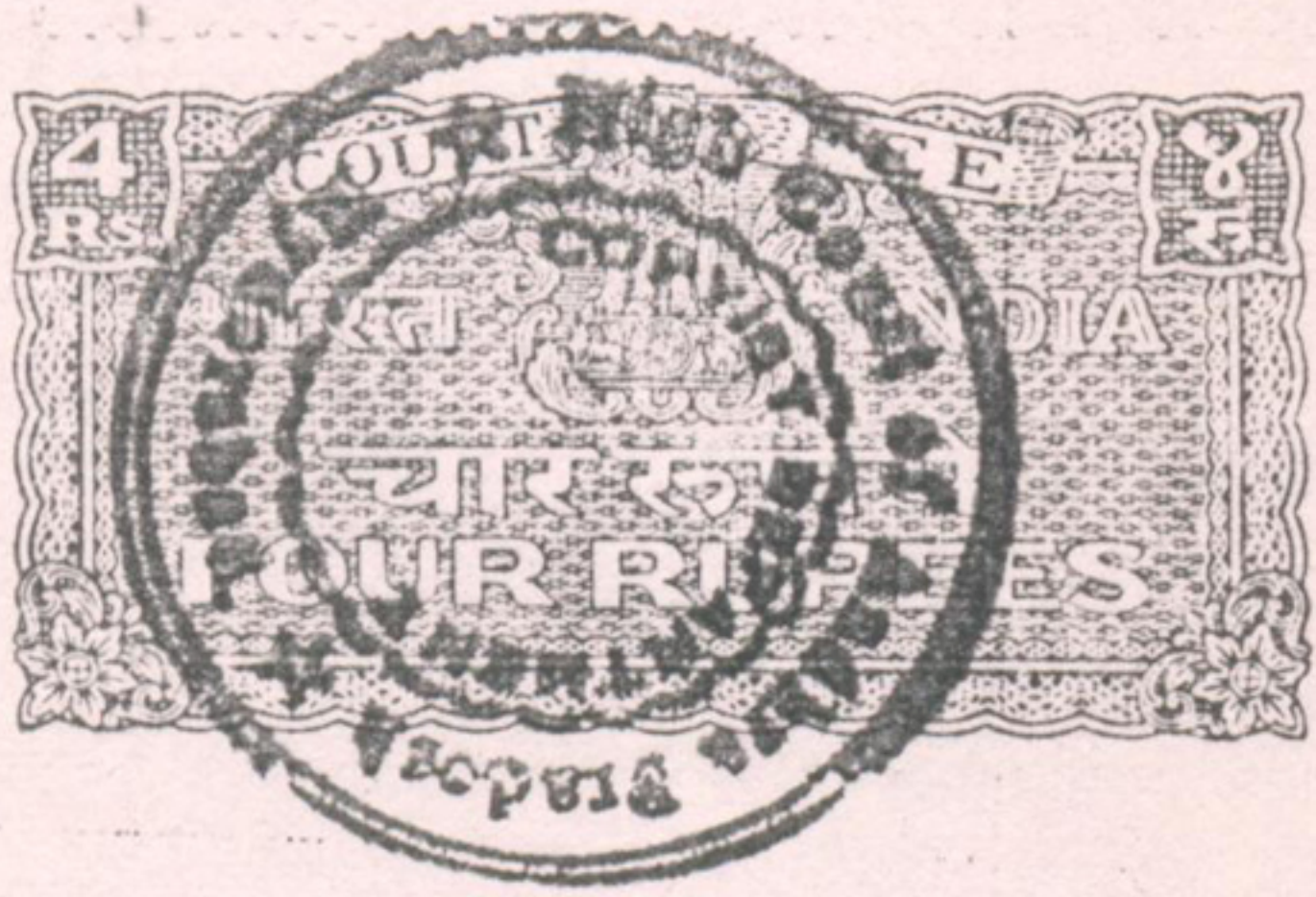
A. I. R. 1960 Kerala Page 110 for the proposition that there must be corroboration to the intimate relationship. In view of the absence of corroborative evidence, the

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finding of the courts below that the petitioners failed to establish the paternity of the second petitioner cannot be ~~denied and~~ interfered with.

// It is also seen that Under Section 397 Cr.P.C., a second revision cannot be maintained as the same party ~~has~~ failed in a revision filed before the sessions court. In that view also, the criminal petition <sup>has</sup> ~~is~~ to be held as not maintainable.

The criminal petition is therefore dismissed.



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Dt: 20-11-1995

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Asst. Registrar

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COPYIST DEPARTMENT  
HIGH COURT OF A. P.  
HYDERABAD