



Crl.R.C(MD)No.361 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.361 of 2018

Geetha

... Petitioner/Appellant/Petitioner

Vs.

1.Jeyabalan

2.Johnson Paulraj

3.Jabakaniappa

... Respondents/Respondents/Respondents

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the entire records pertaining to the Judgment passed by the learned Judicial Magistrate No.II, Thoothukudi in M.C.No.19 of 2013, dated 14.10.2016 by partly allowing the petition filed by the petitioner herein, which has been subsequently, confirmed by the learned II Additional District and Sessions Court, Thoothukudi in C.A.No.5 of 2017, dated 01.02.2018 and by setting aside the order rejecting the relief for return of jewels.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents : Mr.N.Subramani



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ORDER

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This Criminal Revision Petition is filed against the order passed by the learned Judicial Magistrate No.II, Thoothukudi in M.C.No.19 of 2013, dated 14.10.2016 by partly allowing the petition filed by the petitioner herein, which has been subsequently, confirmed by the learned II Additional District and Sessions Court, Thoothukudi in C.A.No.5 of 2017, dated 01.02.2018.

2.The petitioner is a daughter of the respondents 1 and 3 herein and sister of the second respondent. She lodged a complaint under the Domestic Violence Act as against the respondents for permitting the respondents to return the jewels belong to the petitioner, restraining the respondents from interfering the life of the petitioner and sought for compensation to the tune of Rs.1,00,000/-.

3.The case of the petitioner is that even before her marriage, she was serving as Chief Warden in Thakkalai Women Prison till her marriage, she herself fulfilled maximum expenses without the help of the respondents. Further, the respondents had spent all the salaries and income of the petitioner till her marriage, namely, on 20.01.2012. In fact the marriage expenses was met out from her



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income. The petitioner was on leave before joining duty, due to abortion of pregnancy for the period of 45 days. During that period, she had left her jewels and articles with the respondents. They also demanded the ATM card of the petitioner and they had withdrawn huge sum for their personal expenses.

4.In order to prove her case, the petitioner had examined as P.W.1 and P.W.2 and exhibited 13 documents as Ex.P.1 to Ex.P.13. On the side of the respondents, they had examined R.W.1 and R.W. 2 and no documents were marked.

5.A perusal of oral and documentary evidence, the trial Court partly allowed the petition and protection order was granted in favour of the petitioner from the hands of the respondents from committing violence to her and also directed the respondents 1 and 2 to pay a compensation of Rs.50,000/- each to the petitioner. However, the trial Court did not order any return of jewels. Aggrieved by the same, the petitioner has preferred an appeal before the learned II Additional District and Sessions Court, Thoothukudi in C.A.No.5 of 2017 and the appeal was also dismissed on 01.02.2018 and confirmed the Judgment of the trial Court. Hence, the present revision.



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6.The learned counsel for the petitioner would submit that after her marriage, she got pregnant. Unfortunately, her pregnancy got terminated and at that juncture, she was stayed with the respondents. She also got employment even before her marriage, namely, in the year 2002. Till her marriage, her expenditure was met out by herself and she never had been taken by the respondents during the leave period and she had kept her jewels with the respondents. They failed to return back the jewels and also withdrawn a sum of Rs.1,00,000/- through her ATM Card. However, the Courts below ordered only compensation and granted the protection order and rejected the claim of return of jewels.

7.Per contra, the learned counsel for the respondents would submit that the respondents are none other than the own father, mother and brother of the petitioner herein. They only arranged marriage with her husband and the entire expense was incurred by them during the marriage. The husband of the petitioner is an Advocate and as such, a false and frivolous complaint was lodged under the Domestic Violence Act. There was absolutely no harassment or extraction of any money from the petitioner herein. He would further submit that the entire amount, which was



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allegedly withdrawn by the respondents was utilized only for her medical expenditure. Admittedly, her pregnancy got terminated and she stayed in the house of the respondents, due to her medical emergency, she used to give the ATM card to the first respondent herein to withdraw money for her medical expenditure. Therefore, no single paisa was utilized by the respondents and the Courts below rightly dismissed the claim for returning of jewels.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.The petitioner lodged the complaint under the Domestic Violence Act as against her parents and brother. The petitioner got married with one Advocate and only on his instigation, the said complaint was lodged. The petitioner has failed to prove that she handed over the jewels to the respondents. Admittedly, when she was staying with the respondents, due to termination of her pregnancy, there was medical expenses. However, the first respondent admitted that the ATM card was handed over to him and he had withdrawn money to the tune of Rs.85,000/-. Therefore, the Courts below ordered compensation to the tune of Rs.50,000/- each payable by the respondents. Therefore, this Court finds no infirmity



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or illegality in the order passed by the Courts below since the petitioner is not entitled for the relief to return of her jewels by the respondents. Hence, this Revision Petition is dismissed.

31.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Judicial Magistrate No.II, Thoothukudi.
- 2.The II Additional District and Sessions Court, Thoothukudi.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

sjj

Order made in
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