

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**Crl.R.C(MD)No.225 of 2017
and
Crl.M.P(MD)No.1931 of 2017**

C.Rathinam ... Revision Petitioner/
Respondent/Respondent

Vs.

Vetriselvi ... Respondent/
Appellant/Petitioner

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 15.03.2016 made in Crl.A.No.66 of 2014 on the file of the learned District Judge, Sivagangai and set aside the same.

For Petitioner : Mr.M.Kaliraj

For Respondent : Mr.T.Thirumurugan

ORDER

This revision has been filed to set aside the order, dated 15.03.2016 made in Crl.A.No.66 of 2014 on the file of the learned District Judge, Sivagangai, thereby remanded the matter back for fresh hearing in S.T.C.No.349 of 2013 on the file of the learned District Munsif cum Judicial Magistrate Court, Thirupathur.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

3.The respondent is the daughter-in-law of the petitioner. She married the son of the petitioner and gave birth to two children. Unfortunately, her husband died. The respondent filed an application before the District Prevention and Protection of Domestic Violence Welfare Officer on 18.02.2008 and the same has been taken on file in M.C.No.27 of 2008 on the file of the learned Judicial Magistrate, Thiruppathur. She also filed an application for monetary relief of return the widow pension of Rs.12,500/- which was granted in favour of the respondent, to redeem the sridhana jewels of 30 sovereigns and also half share of her husband in the family property. The learned Judicial Magistrate, Thiruppathur,

directed the petitioner to return the sridhana jewels of the respondent within a period of two months and the rest of the reliefs were dismissed. Against the said order, respondent filed an appeal in Crl.A.No.21 of 2011 on the file of the learned Sessions Judge, Sivagangai, and the trial Court, by order dated 30.08.2012, directed the petitioner to redeem the sridhana jewels to the respondent within a period of two months. While being so, the respondent preferred a petition under Section 31 of the Protection of Women from Domestic Violence Act, 2005 in S.T.C.No.349 of 2013 before the learned District Munsif cum Judicial Magistrate, Thirupattur. The trial Court found the petitioner guilty for the offence under Section 31 of the Protection of Women from Domestic Violence Act, 2005 and sentenced him to undergo one week simple imprisonment and also imposed a fine of Rs.500/- as penalty, in default, shall undergo two days Simple Imprisonment. Aggrieved by the same, the respondent filed an appeal for enhancement of sentence in Crl.A.No.66 of 2014 on the file of the learned District Judge, Sivagangai. The Appellate Court set aside the order of sentence and remanded the matter back to the trial Court for a fresh trial. Aggrieved by the same, the present Revision.

4.The learned counsel appearing for the petitioner would submit that now the petitioner is aged more than 71 years, and he is bedridden and cannot even stand or walk without the help of others.

5.On perusal of the records, it is seen that after conviction, under Section 31 of the Protection of Women from Domestic Violence Act, 2005, the petitioner had already undergone one week Simple Imprisonment and also paid a sum of Rs.500/- as the fine amount. The Appellate Court, without considering the same, allowed the appeal and remanded the matter back to the trial Court for fresh disposal. That apart, the petitioner had already settled the property in favour of the respondent and grandchildren to an extent of 3 acres 98 cents. When the husband of the respondent was alive, he was suffering from H.I.V. Therefore, while both were together, her husband mortgaged the jewel and the entire amount had been spent for his treatment. Therefore, the petitioner is nothing to do with the jewels. Considering the above facts, the Appellate Court ought not to have remanded the matter back for fresh trial.

6.Considering the facts and circumstances of the case and also considering the fact the petitioner is aged about 71 years, the Judgment made in Crl.A.No.66 of 2014 on the file of the learned District Judge, Sivagangai, dated 15.03.2016, is set aside and the Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

20.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
ps

To

- 1.The District Court,
Sivagangai.
- 2.The District Munsif cum Judicial Magistrate Court,
Thirupathur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C(MD)No.225 of 2017

G.K.ILANTHIRAIYAN, J.

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Order made in
Crl.R.C(MD)No.225 of 2017

20.03.2023