

Reserved

Case :- CRIMINAL REVISION No. - 313 of 2017

Revisionist :- Ved Krishna

Opposite Party :- State Of U.P And Another

Counsel for Revisionist :- Arunendra Mohan Shukla, Amarjeet Singh Rakhara, Rishad Murtaza

Counsel for Opposite Party :- Govt. Advocate, Dhruv Mathur, Mohammad Aslam Khan, Pranshu Agrawal, Rahul Kumar

With

Case :- CRIMINAL REVISION DEFECTIVE No. - 447 of 2017

Revisionist :- Shailja Krishna

Opposite Party :- State And Ors.

Counsel for Revisionist :- Mohammad Aslam Khan

Counsel for Opposite Party :- Govt. Advocate, Amarjeet Singh Rakhra

Hon'ble Rajeev Singh, J.

1. Heard Shri Rishad Murtaza, learned counsel appearing for the revisionist-husband (Crl. Revision No. 313 of 2017), Shri Vimal Bhabhda, learned counsel for complainant-wife (revisionist in Crl. Revision (D) No. 447 of 2017) and learned A.G.A. for the State.
2. Both the revisions have been filed for setting aside the order dated 20.12.2016 passed by Additional Sessions Judge, Court No. 3, Faizabad and order dated 14.10.2014 passed by Chief Judicial Magistrate, Faizabad in Criminal Complaint No. 7787 of 2012.
3. The genesis of the controversy is the judgment and order dated 14th October, 2014 passed by Chief Judicial Magistrate, Faizabad in Criminal Complaint No. 7787 of 2012 (Smt. Shailja Krishna Vs. Ved Krishna & Ors.) under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the 'Act'). The aforesaid order was challenged by the complainant-wife as well as respondent no. 1 of the complaint-husband in Criminal Appeal No. 19 of 2015 (Smt. Shailja Krishna Vs. Ved Krishna & Ors.) and Criminal Appeal No. 172 of 2014 (Ved Krishna Vs. Smt. Shailja Krishna & Ors.), respectively. Both the appeals were decided by a common judgment

dated 28th December, 2016 by Additional District & Sessions Judge, Court No. 3, Faizabad. The aforesaid decisions are challenged in both the revisions, hence, the same are being decided by this common judgment.

4. As per the case of the complainant-wife, as mentioned in the complaint under the provisions of Section 12 of the Act, her marriage was solemnized with Ved Krishna on 30.05.1996, however, at the time of registration of marriage, on the request of Ved Krishna, the date of marriage was mentioned as 19.06.1996 in the record. In March, 2005, father-in-law of the complainant-wife, Krishna Kumar Jhunjhunwala died, due to which, Ved Krishna was assigned the work of his father, i.e., Managing Director of Yash Paper Ltd. and the complainant was assigned the post of Vice President. Husband-Ved Krishna was also holding the post of Chairman of Confederation of Indian Industries and Trustee of Jingle Bell Nursery School Society, Motilal Bhimraj Charitable Trust, K K Charitable Foundation as also owner of Agricultural Farm, namely, Mangalam Farm Agro Ltd. and has the business of millions of Rupees. Thereafter, she was performing her duties as a wife as well as Vice President in the Company till December, 2010. It is also alleged therein that out of their wedlock, one daughter, Sangam Krishna was born on 27.10.2002 and upto 2006, they were very happy in their matrimonial life. Thereafter, it came into the notice of the complainant-wife that Ved Krishna was in close relation with the daughter of the Principal of the aforesaid School, which is being managed by her mother-in-law and when she tried to talk him on the issue, he became very aggressive and scolded her. When this fact was brought into the notice of mother-in-law, she also tried to avoid. However, later on, after the request of the complainant-wife that he should not have relations with Nivedita Tiwari, Ved Krishna informed that he excluded himself, however, he facilitated her admission in the Acting course in Barijones School, Mumbai. It is further alleged in the complaint that though the complainant was suffering from mental trauma, she tried to compromise with her life for the sake of her child. In the interregnum, her second daughter, Vidya Krishna born on 15.08.2008. Everything was going normal, but on 14.11.2009, the husband of the complainant came in contact with one Kimberly Macarthur, a U.S. citizen, who was also introduced with the complainant and the complainant was under the impression that her husband is in association with the Kimberly Macarthur for professional

relations, but later on, she noticed that he was mostly engaged with Kimberly Macarthur on telephone as well as SMS and mail. Suddenly, in June, 2010, his behaviour was changed with the complainant and children and started humiliating her. On paying attention, the complainant found that her husband was having intimate relations with Kimberly Macarthur, on which, she tried to persuade him not to engage himself with the aforesaid lady for the sake of the children, but he had not paid any heed. Thereafter, in July, 2010, Kimberly Macarthur came to Delhi, on the information of which, her husband also visited Delhi and stayed with her there as well as in Bhimtal. In October, 2010, her husband also went to London and stayed with Kimberly Macarthur.

The complainant also alleged in the said complaint that after coming back from London, frequency of her victimization was increased by the husband and later on, her fooding and lodging facilities were also stopped. When she tried to talk, her husband as well as mother-in-law jointly told her to leave the premises, on which, she called her mother, Smt. Kumudini Thirani from Kolkata on 13.12.2010, due to which, she was scolded and beaten by her husband and mother-in-law and also took her signatures on blank papers and she was compelled to go to Kolkata. Thereafter, on 09.01.2011, her husband came to Kolkata and forcibly took back her children and started living at Faizabad. On 30.01.2011, Kimberly Macarthur also came to India and started living with Ved Krishna as husband and wife. On 01.02.2011, complainant came back at Faizabad and started living in the Officers' colony of Yash Paper Ltd., but in the evening of the same day, she was beaten brutally and by abusing her, took away her daughters and brought them to his mother. After sometime, children were returned to the complainant-wife and he started living openly with Kimberly Macarthur. Thereafter, a complaint was made to the police by the complainant-wife on 05.02.2011 and later on, F.I.R. No. 7 of 2012 was lodged, due to which, all the financial facilities were stopped by the Ved Krishna-husband and she was surviving on the assistance of her parents.

In the meantime, divorce petition was filed by her husband in a court of Bournville at County State of Edaho, USA and she received notices. A case under Section 13 of Hindu Minority & Guardianship Act was also filed for custody of children. In the written statement, filthy comments were made against the complainant. However, though the order was

passed by the family court in the aforesaid case that the daughters will be kept in the joint custody of the parents, but taking undue advantage of the same, Ved Krishna took them from the school and they were not being allowed to meet with her. Thereafter, she moved an application under Section 12 of Protection of Women from Domestic Violence Act for mental trauma and Rs.3 lacs per month for maintenance.

In the written statement filed in the said case, her husband stated that the complainant has encroached the official accommodation of Managing Director of the Company M/s. Yash Paper Ltd. and no other person is allowed to move in the said official accommodation. In the said written statement, it is also stated by Ved Krishna that he is ready to facilitate the complainant-wife proper accommodation at the prime place in Faizabad city, but she denied the proposal. It is also mentioned therein that at the time of marriage, he was aged about 20 years, and the age of the complainant was 24 years. Her behaviour was not in support of the family as well as in the company functioning. However, in the said written statement, he does not dispute the business of the Company, but he stated that he is only receiving the salary from the Company and, in case, any profit is being earned by the Company, he cannot enjoy the entire amount. He also stated that the entire story related to Nivedita Tiwari and Kimberly Macarthur is false and concocted. In the said written statement, it is next stated that the complainant was one of the Director in M/s. Yash Paper Ltd. and she was also Vice President of Human Resources in the Company. She was being paid salary for her work in the Company and she was not spending any money of her salary and Ved Krishna was bearing all the family expenses. Thereafter, the complainant went to Kolkata on 17.12.2010 with the children, but leaving them at Kolkata, she went to Denmark and Sweden. It is also stated therein that she is trying to snatch the money by adopting the tactics of blaming him (husband) that he is having relation with other women. It is further mentioned in the said reply that there was a joint locker of the complainant and her husband, but in December, 2010, she opened a new locker in Axis bank with the joint name of her mother, Kumudini Thirani and all the ornaments of Rs.2 crores were taken from the said joint locker and kept in her new locker at Axis bank.

The daughter Sargam Krishna had also filed application before the Family Court that she does not want to live with her mother, as she

failed to discharge the duty of motherhood and also requested that she may be allowed to live with her father.

5. Considering all the facts, the Chief Judicial Magistrate, Faizabad passed the impugned order dated 14.10.2014, against which, the complainant filed the Appeal No. 19 of 2015 for enhancement of the maintenance awarded to her by the said order. The order dated 14.10.2014 was also challenged by the husband-Ved Krishna by means of Appeal No. 172 of 2014 on the ground that without properly appreciating the evidence, maintenance has been awarded. Both the appeals were dismissed vide impugned order 20.12.2016.

6. Learned counsel for the revisionist-husband in Revision No. 313 of 2017 submitted that the husband-Ved Krishna is ready to settle the dispute amicably and also informed that he is bearing all the educational and other expenses of their daughter. It has vehemently been submitted that he is also ready to maintain his wife. It has also been submitted that about 41 cases are pending in between the husband and wife and the cases, which have been filed by the husband-Ved Krishna, were filed under compulsion. It has lastly been submitted that all the evidences placed by him before the court below were not considered in proper manner and, therefore, indulgence of this Court is necessary.

7. On the other hand, learned counsel for the revisionist-wife in Criminal Revision (D) No. 447 of 2017 (Shailja Krishna) submitted that the decree passed by the Edaho court is having no legal sanctity. It has vehemently been submitted that it is well settled by the Hon'ble Apex Court that the wife is entitled to get equal status, in which, her husband is residing, but this proposition was neither considered by the Magistrate concerned nor by the appellate court and, therefore, the impugned orders are liable to be modified, warranting interference by this Court.

8. Considering the arguments advanced by the learned counsel for the revisionists in both the cases and going to the the impugned orders passed by the Chief Judicial Magistrate as well as by the appellate court, it is evident that all the evidences relied by the parties were considered in detail by the Magistrate and was upheld by the appellate court. Moreover, learned counsel appearing for both the parties failed to show any illegality in the orders passed by the competent courts. Further, it is well settled by Hon'ble Apex Court that once the appellate court has

upheld the findings of trial court, unless there is grave illegality in the findings of the court, the same cannot be unsettled.

9. In view of above facts and circumstances, both the revisions lack merit and are hereby dismissed.

Dated : March 7, 2024
VKS