

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.126 of 2015

P.Mini@ Jayalakshmi

... Respondent

vs

Prasannan

...Respondent/Appellant

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed in CrI.Appeal No.101 of 2014 dated 28.11.2014 by learned XVIII Additional Sessions Court, Chennai by restoring the order in M.C.No.21/2011 dated 24.02.2014 by learned XXIII Metropolitan Magistrate Court, Saidapet by allowing the Criminal Revision.

For Petitioner : Mr.P.Rajendra Kumar
For Respondent : Mr.Amizhdhu

O R D E R

Petitioner has filed this revision challenging the order passed by learned XVIII Additional Sessions Judge, Chennai, in CrI.Appeal No.101 of 2014 dated 28.11.2014 and to restore the order passed by learned XXIII Metropolitan Magistrate, Saidapet, in M.C.No.21/2011 dated 24.02.2014.

2. Petitioner/wife has moved a petition under the Protection of Women from Domestic Violence Act, in M.C.No.21 of 2011 on the file of learned XXIII Metropolitan Magistrate, Saidapet. It was the contention of the petitioner, that she was the wife of the respondent and that she had suffered much hardship at the hands of the respondent. The Court below, under orders dated 24.02.2014, was pleased to direct payment of compensation in a sum of Rs.1,00,000/- and Rs.8,000/- towards monthly maintenance from the date of petition. There against, respondent moved CrI.A.No.101/2014 on the file of learned XVIII Additional Sessions Judge, Chennai, which was allowed under orders dated 28.11.2014. Hence, the petitioner/wife has preferred the present revision.

3. Learned counsel for petitioner submits that the petitioner and respondent had entered upon marriage on 10.05.1999, which was evidenced by Ex.P.1 and they had lived as husband and wife for 14 long years.

4. Learned counsel for respondent, on the other hand, submits that the very marriage between the petitioner and respondent was doubtful. In Ex.P.3, complaint preferred by petitioner before All Women Police Station, Adyar, Chennai, she had averred that she had entered upon a marriage with respondent on his representation that his wife had left with another whereas in her earlier complaint, Ex.P.2, petitioner has stated that believing the representation of respondent that his parents had expired and that he is unmarried and does not have close relatives, she has consented for marriage. Taking note of the discrepancy in the version of the petitioner, the appeal preferred by the respondent was allowed by the court below.

5. This Court finds no error in the order under challenge. The court below rightly has taken note of the contentions of the petitioner in her complaint, Ex.P.3, to the following effect:

"I'm living with my mother in the above address and married the respondent 16 years before. Stating that his first wife left with another, petitioner obtained permission from her family and married him on 10.05.1999 at Vadapalani temple. In her complaint it is further stated that during last two weeks the respondent along with his first wife and children threatened her and asked her to leave the home. She also stated that they are not allowing her to live with the respondent and she has no means to live and to take care of her aged mother. Therefore, she preferred the complaint."

When once the petitioner admittedly had entered into a so-called marriage with first respondent on 10.05.1999 with the knowledge that the respondent then had a wife, who was alive, she cannot contend that she shared a relationship in the nature of marriage with the respondent and seek the benefit of Protection of Women from Domestic Violence Act.

6. Finding no error in the order under challenge, this Criminal Revision shall stand dismissed.

sd/-
Assistant Registrar (Cs-III)

/TRUE COPY/

Sub-Assistant Registrar

kpr

To

1. The XVIII Additional Sessions Judge, Chennai

2. The XXIII Metropolitan Magistrate, Saidapet

+1 CC to MR.P.Rajendra Kumar Advocate. SR.NO.62698

+1 CC to Mr.Amizhdhu Advocate. SR.NO.63152

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CO-ALA
JD 19/01/2016



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