

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.04.2016

CORAM

THE HON'BLE Dr.JUSTICE P.DEVADASS

Criminal Revision Case No.573 of 2016
and
Crl.M.P.No.3841 of 2016

T.Arul .. Petitioner
vs.
Vijayalakshmi .. Respondent

Criminal Revision file Under Section 397 & 401 of Cr.P.C., to call for the records in C.A.No.164/2014 on the file of the Hon'ble XVI Additional Sessions Judge, Chennai and set aside the order dated 08/10/2015 in C.A.No.164/2014 and consequently set aside the order dated 10/6/14 in M.P.No.621/2014 in Crl.M.P.No.2132/2012 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai 600 015.

For petitioner : Mr.M.Murali

ORDER

Aggrieved by the allowing of M.P.No.621 of 2014, permitting hiking of compensation amount from Rs.5,00,000/- (Rupees five lakhs only) to Rs.2,00,00,000/- (Rupees two crores only) by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, as confirmed by the learned XVI Additional Sessions Judge, Chennai, in C.A.No.164 of 2014, the husband of the respondent is before us.

2. The revision petitioner/husband and the respondent/wife are at their loggerheads. The respondent has sought for certain reliefs by filing a petition under Section 12 of the Protection from Domestic Violence Act (shortly D.V. Act). She claimed a compensation of Rs.5,00,000/-. Essentially it is a domestic problem, it involves understanding the sensitiveness of the parties and almost the learned Magistrate in such type of cases should act like a Family Court Judge.

3. Now in this case, the respondent/wife filed M.P.No.621 of 2014 to amend her main petition by including Rs.2,00,00,000/- as compensation instead of Rs.5,00,000/- already claimed by her in the petition. This was allowed by the learned Magistrate. This was also upheld by the Appellate Judge. Finding fault with the said orders, the husband is up in arms before us.

4. The learned counsel for the petitioner would contend that under D.V. Act, there is no provision for such tinkering with the main petition. Further, there should be some rhyme or reason for asking a hike. What she has asked is an elephantine and an astronomical amount. It is a jump from Rs.5 lakhs to Rs.2 Crores. No reason has been adduced for the same in her Miscellaneous Petition.

5. In allowing her petition, both the Courts have took the stand that no prejudice would be caused to the revision petitioner/husband in allowing the amendment petition and still the husband can contest the quantum of compensation when the main petition is taken up for disposal.

6. I have anxiously considered the submissions of the learned counsel for the petitioner, perused the impugned orders and the materials on record and referred to the provisions of the D.V. Act.

7. Law is/should be dynamic and should not be static. There must be march of law. An enactment contains words, but they should be made to speak its language (object) by interpreting it, in tune with its objects and reasons, but while doing so, the Court should not enter into the legislative arena. The Court can interpret the Law, but it cannot make the Law. But Court can, by its interpretative technique, make the Law to work out. The Court cannot simply cry that it had no power to push forward the Law / implement the Law.

8. Section 12 of the D.V. Act permits an aggrieved person to file petition seeking relief/s contemplated under the Act. A petition to correct the error or include relevant factors by way of supplemental petitions, an addendum to the main petition can be accommodated under Section 12 of the Act. This is one way of making the Act to work out when some factors which are need to be brought to the notice of the Court which were left out.

9. M.P.No.621 of 2014 is in the nature of an amendment petition. In a Miscellaneous Petition like this, the Court cannot try the issue. There cannot be a trial/enquiry within a trial/enquiry. The mere fact that the Miscellaneous Petition is allowed, the plea raised in the amendment petition, viz., Rs.2 Crores as compensation cannot be said to have stand allowed. Still it is for the petitioner to establish her demand for huge compensation and the Court is bound to give reasonable opportunity to the revision petitioner/husband and adjudicate the issue and render its finding thereon. In this respect, we concur with the concurrent findings of both the Courts below as no legality or propriety has been brought out.

10. In this view of the matter, this Revision fails and it is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

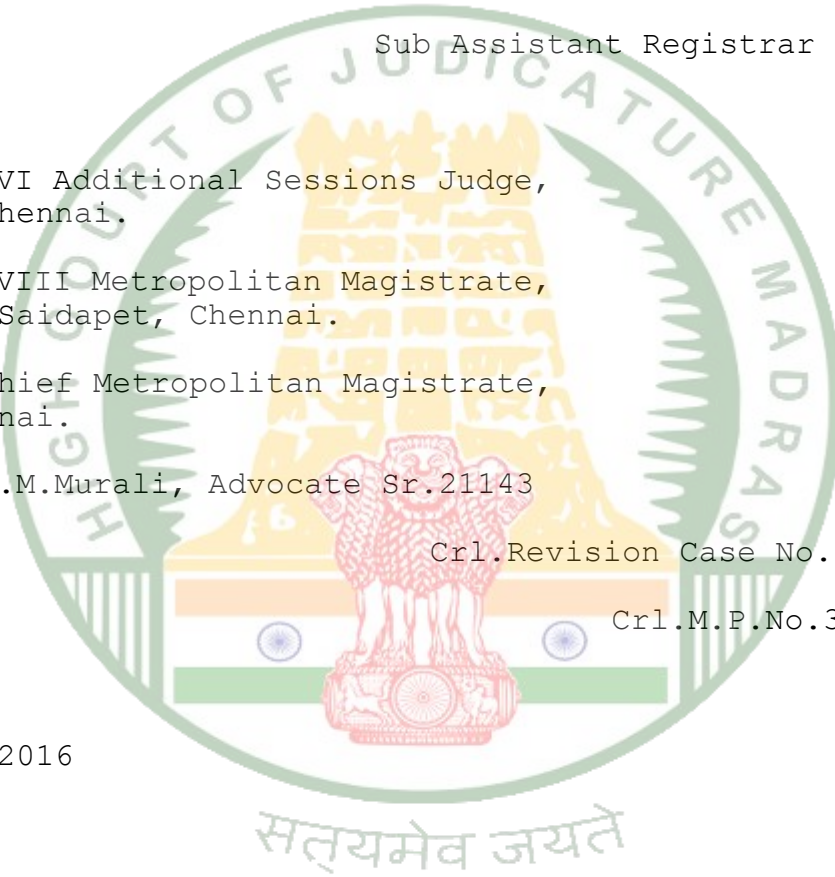
To

1. The XVI Additional Sessions Judge,
Chennai.
2. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.
3. The Chief Metropolitan Magistrate,
Chennai.

+1cc to Mr.M.Murali, Advocate Sr.21143

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srg 02/05/2016



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