

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 11.07.2016****CORAM:****THE HONOURABLE DR.JUSTICE P.DEVADASS****C.R.L.RC(MD) No.475 of 2016****and****Crl.M.P.(MD) No.5455 of 2016**Selvarajan ... Petitioner/Appellant/1st Respondent

-vs-

Sri Rengasubathra ... Respondent/Respondent/Petitioner

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order of the II Additional Sessions Judge, Thoothukudi dated 11.02.2016 in C.A.No.38 of 2015, modifying the order passed by the learned Judicial Magistrate No.1, Kovilpatti in M.C.No.2 of 2013 by order dated 01.07.2015 under Protection of Women from Domestic Violence Act and set aside the same.

For Petitioner : Mr.S.Ramasamy

For Respondent : Mr.A.Baskaran

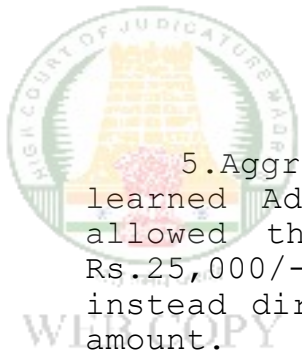
O R D E R

This is an husband's revision as against his wife.

2.The revision petitioner and the respondent are blessed with a child, but not with a happy married life. The boy is 6 years old. He is a school going boy. Difference of opinion arose between the spouses. They got separated. The boy is with his mother.

3.Claiming shared residence, compensation, maintenance, return of her srithana articles and also protection from domestic violence, the wife has filed M.C.No.2 of 2013 before the learned Judicial Magistrate No.I, Kovilpatti as against her husband and his parents. Evidence was let in. Report of the Social Welfare Officer received.

4.Considering the evidence and the submissions of both sides, the learned Magistrate directed the revision petitioner to provide her accommodation on a rent of Rs.10,000/- p.m., pay Rs.10,000/- towards monthly maintenance, Rs.50,000/- towards compensation, return of her Srithana Articles and also issued protection order.



5. Aggrieved, the husband has filed C.A.No.38 of 2015, before the learned Additional Sessions Judge, Tuticorin. The Appellate Judge allowed the appeal in part, reduced the compensation amount to Rs.25,000/- and deleted the direction to pay Rs.10,000/- towards rent, instead directed her to bear the rent out of her monthly maintenance amount.

6. Aggrieved, the husband has filed this revision.

7. According to the learned counsel for the revision petitioner/husband, petitioner is a jobless B.E. graduate, he has no source of income. In her evidence she has admitted that there is no domestic problem between them and because he has filed a divorce case, she considered it a domestic violence. Further, Rs.25,000/- towards compensation is an heavy amount.

8. On the other hand, the learned counsel for the respondent/wife contended that the revision petitioner always suspected his wife. He had linked her with many persons. He had connected her with his father also. In the facts and circumstances, rightly protection order has been issued. He has lot of money. And what was granted by the Court itself is very less.

9. I have anxiously considered the rival submissions, perused the impugned judgments and the materials on record.

10. The revision petitioner and the respondent have become estranged couples. Lot of difference of opinion arose between them. Section 2(g) r/w Section 3 of the Protection of Women from Domestic Violence Act, 2005 (D.V. Act) explains what is 'domestic violence'. It has various facets. Broadly they were categorized as physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. Further, each phrase also has been elaborated. In short, in domestic relationship, domestic violence is analogous to matrimonial cruelty. Domestic violence comprises physical as well as mental cruelty. Mental cruelty is worse than physical cruelty. Physical cruelty/torture may heal but not the mental torture. It will be ever in her mind.

11. In this case, the husband is having the habit of suspecting his wife. He has the habit of linking her with many persons. He is too cruel to link her even with his father. It will be too dangerous and unbearable for a wife. It will be an hell for her. It also amounts to emotional abuse. For a good matrimonial relationship mutuality and cordiality between the spouses is required. If it is lost, peace and happiness in family life will be lost. It will have its repercussions in the well being of the child also. In the facts and circumstances of this case, what is complained of is nothing less of domestic violence. Hence, this case will fall within the definition of Section 3 of D.V. Act.

12. The concept of shared residence has been introduced in the D.V. Act. It is a pious duty of the husband to provide a roof/shelter to his wife and children. Under the Act it is his duty to provide residence to his wife either from his own property or from his joint



family property. Suppose if the husband has no property or he is having a property which is an hell for his wife, Section 12 of the Act speaks about his duty to provide accommodation to his wife even in a rented premises. But it must be according to her standard of living.

13. In this case, the trial Court has directed the husband to provide her rented house on a monthly rent of Rs.10,000/-. But the Appellate Court has directed her to bear the rent out of her monthly maintenance of Rs.10,000/-. The Appellate Court also reduced the compensation amount from Rs.50,000/- to Rs.25,000/-. It is pertinent to note that the wife has not preferred any revision as against that. It is also pertinent to note that the child is under the care and custody of his mother.

14. It has been contended that the husband is jobless. Except his such ipse dixit, no concrete evidence to establish this. Even then, if we accept such a contention then every husband will try to escape from his moral and legal obligation to maintain his wife and children simply by saying that he is jobless. It is too dangerous to accept such a contention. If he has no job, he can work as a coolie. And there is no wrong in begging for feeding his wife and children. Thus, no valid ground has been made to interfere with the appellate Court's judgment.

15. Thus, this Revision fails and it is dismissed. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

sj

To:

1. The Principal Sessions Judge, Tuticorin.

2. The II Additional Sessions Judge, Tuticorin.

3. The Judicial Magistrate No. I, Kovilpatti.

+1CC to Mr. S. Ramasamy, Advocate Sr. No. 35483

+1CC to Mr. A. Baskaran, Advocate Sr. No. 35835

GJM/GSV/PM/19.7.16-3p-6c

**C.R.L.RC (MD) No.475 of 2016
and CrI.M.P. (MD) No.5455 of 2016
11.07.2016**