

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.Nos.1229 and 1621 of 2016
and

Crl.M.P.Nos.11108, 12580 of 2016 and 13274 of 2016

Crl.R.C.No.1229 of 2016:

R.Gunasekar
S/o.Ramamurthy .. Petitioner

vs.

1.B.R.Dhanalakshami
W/o.Gunasekar

2.Master R.Lohit
S/o.Gunasekar .. Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the common judgment of learned II Additional Sessions
Judge, Chennai, passed in C.A.Nos.45 and 59 of 2016 on
27.07.2016.

Crl.R.C.No.1621 of 2016:

1.B.R.Dhanalakshami
W/o.Gunasekar

2.Master R.Lohit
S/o.Gunasekar

.. Petitioner

vs.

1.M.R.Gunasekar
S/o.Ramamurthy

2.Ramadevi
W/o.Ramamurthy

3.Rajalakshmi
W/o.Kesavalu

.. Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the common judgment of learned II Additional Sessions
Judge, Chennai, passed in C.A.No.59 of 2016 on 27.07.2016.

Appearance:

Petitioner in Crl.R.C.No.1229/2016

& first respondent in Crl.R.C.No.1621 of 2016

..Mr.S.Swamidoss Manokaran

Respondents in Crl.R.C.No.1229 of 2016

& petitioners in Crl.R.C.No.1621 of 2016 : Dr.G.Krishnamurthi

C O M M O N O R D E R

Crl.R.C.No.1229 of 2016 has been filed by husband against the order of maintenance. Crl.R.C.No.1621 of 2016 has been filed by wife and minor son seeking right of residence.

2. Husband and wife have filed O.P.No.1078 of 2015 on the file of Family Court, Chennai, seeking divorce on mutual consent. Wife and minor son moved D.V.C.No.55 of 2015 on the file of learned XV Metropolitan Magistrate, George Town, Chennai, seeking protection and residential rights as also maintenance. Court below, under orders dated 05.02.2016, directed the husband to pay a sum of Rs.10,00,000/- towards compensation and monthly maintenance in a sum of Rs.15,000/-. There against, husband and wife preferred C.A.Nos.45 and 59 of 2016 on the file of learned II Additional Sessions Judge, Chennai, which came to be dismissed under common judgment dated 27.07.2016. Hence, these revisions.

3. Heard learned counsel for husband and learned counsel for wife.

4. On perusal of papers and consideration of the submissions of learned counsel on either side, it is seen that the parties had resided as husband and wife at the building No.33/12/3, Arani Gangan Street, Old Washermenpet, Chennai - 600 021. It is informed by both counsel that the parties resided in the first floor of the building and their belongings are even now kept therein. Therefore, such premises partakes the nature of shared household and the wife cannot be denied the right of residence therein along with her minor child. As regards the income of the husband, it is seen that there is no material to support any claim of his earning more than that he admits to viz., a sum of Rs.8,600/- p.m. Though in the course of cross-examination, husband has spoken to having provided a sum of Rs.12,000/- to Rs.15,000/- p.m. before the parties parted ways and also provided a sum of Rs.1,500/- for the minor child, it is now admitted position that the husband presently is at Bangalore. It is the admission of the wife in cross-examination

that the husband suffered from epileptic attacks.

5. In the circumstances, this Court directs as follows:

(i) the wife shall be entitled to right of residence in the building at No.33/12/3, Arani Gangan Street, Old Washermenpet, Chennai - 600 021.

(ii) the husband is directed to pay a sum of Rs.4,000/- p.m. towards maintenance to his wife and minor child.

(iii) Given the facts of the present case and being of the view that requiring one who has no means to effect payment of compensation will serve no purpose, this Court would interfere with the orders of Courts below requiring the husband to effect payment of compensation in a sum of Rs.10,00,000/-. Accordingly, such requirement shall stand deleted.

These Criminal Revision Cases are disposed of with the above direction. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The II Additional Sessions Judge,
Chennai.

2.The XV Metropolitan Magistrate,
George Town, Chennai.

+2cc to Mr.K. Sakthi Rani Advocate in Sr.NO. 2999& 3000

+1cc to Mr.S.Swamidoss Manokaran Advocate in SR. NO. 3099

LRS (CO)
VR(17/02/2017)

Cr1.R.C.Nos.1229 and 1621 of 2016