

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Revision Petition No.2675 of 2016

ORDER:

The revision petitioner is no other than the husband of the revision 1<sup>st</sup> respondent. Their marriage was undisputedly performed on 27.11.2007 in Secunderabad according to Hindu law and custom. The 1<sup>st</sup> respondent maintained a case DVC No.9 of 2012 on the file of the learned XI Metropolitan Magistrate, Cyberabad, L.B.Nagar of Ranga Reddy district u/ sec. 12 of the Protection of Women for Domestic Violence Act, 2005 (for short, 'the Act') against the revision petitioner- husband of her including his mother, sister and sister's husband, to pass protection order, maintenance and compensation. The learned Magistrate supra, by order dated 09.12.2013, on contest including from the evidence of P.Ws. 1 and 2, R.Ws. 1 to 5, Exs.P.1 to 21 and R.1 and R.2 photographs, partly allowed the petition directing the respondents to decide from execution of any kind of domestic violence towards the petitioner and by directing respondent to pay Rs.20,000/- per month towards maintenance which includes provision for her accommodation, payable by 5<sup>th</sup> of next month and also to pay Rs.20,00,000/- towards compensation within two months from the date of receipt of copy of the order besides Rs.10,000/- towards costs of the proceedings. It is when impugning the same, the revision petitioner maintained CrI.A.No.71 of 2014 and the wife maintained CrI.A.No.86 of 2014 respectively on the file of the Addl. Metropolitan Sessions Court, Cyberabad at L.B.Nagar, who by common order dated 15.07.2016, dismissed both the appeals confirming the order of the learned Magistrate supra, it is impugning the same, he maintained the present revision.

2. Heard learned counsel for the revision petitioner and the 1<sup>st</sup> respondent party in person besides the learned Public Prosecutor for the State and perused the material on record including the impugned orders and the grounds of revision.

3. The contentions in the grounds of revision vis-à-vis the oral submissions of the learned counsel for the petitioner are that the impugned orders of the lower appellate Court confirming the order of the learned Magistrate are contrary to law, unsustainable against the judicial conscience and outcome of non-consideration of various factual and legal submissions from the material on record and is an erroneous outcome without proper appreciation of evidence and ought to have seen that marriage expenses are unrecoverable even under the provisions of the Act or Rules for nothing specific and even evidence of P.W.2 K.Arunadevi is suffice to allow the appeal by the lower appellate Court that was not properly appreciated and erred in awarding compensation, maintenance and damages exorbitantly, hence to set aside the same by dismissing the DVC claim.

4. Whereas, it is the submission of the DVC petitioner as 1<sup>st</sup> respondent to the revision in support of the order passed by the lower appellate Court confirming the order of the learned Magistrate in seeking to dismiss the revision claiming as groundless on fact and law.

5. The factual matrix necessary in deciding the scope of revision from the material on record are that as per the claim of the wife 20tulas of gold, 1 kg. silver, house flat and Rs.50,000/- cash was paid at the time of engagement and the respondents were demanding to comply additional dowry like presentation of gold Laxmidevi idol despite the petitioner and her mother expressed their inability to meet the same. The 1<sup>st</sup> respondent and his mother-2<sup>nd</sup> respondent besides his sister by interfering in her day-to-

day life were harassing and the petitioner went to Dubai in January, 2008 and Joined the 1<sup>st</sup> respondent-husband and even there the 2<sup>nd</sup> respondent-mother of the 1<sup>st</sup> respondent even joined and they continued to harass her physically and mentally and unnecessarily picking up quarrels and R.1-husband was waking up rudely and beating her even she was in sound sleep and R.2 used to demand the petitioner to touch her feet for every small reason and R.1 once pressed her throat. On 11.08.2008 she came to India and stayed with her mother-in-law R.2 at Puttaparthi and R.1 called her two months later and in between the R.2 harassed her for additional dowry and on 09.10.2008 R.2 and R.3 attempted to assault her even physically by confining in a room locking from outside and from apprehending danger to her life in their hands, she left them and came to Hyderabad and at that time she left all her gold ornaments there for she could not bring in her suitcase and several mediations took place for settling the matter which were in vain including of the mediations in August, 2010 and even the petitioner sent mails to R.1 to send her visa papers, he did not care her and demanded to provide money for purchasing house site or hand over house site as per the demand of the R.2, that he filed divorce petition against her even she tried to join and live with him.

6. The counter filed by the respondents 1 and 2 husband and mother-in-law against whom the allegations referred supra are while denying the same and by saying they never harassed her and no gold or silver or cash was presented by her before or after her marriage and the alleged harassment at Puttaparthi and Dubai are false and invented and she herself left his company and she is of suspicious character and she did not join him by creating mental agony which made him to file divorce O.P.No.1092 of 2010 pending and he is paying Rs. 15,000/- p.m. towards maintenance as per the Family Court's order and residential house exclusively belongs to R.2 as

she purchased from her savings and accumulations from her eldest son and R.1 has no right therein and the petitioner has no right to claim over it and sought for dismissal.

7. It is from the pleadings and from the evidence adduced oral and documentary referred supra, the conclusions arrived by the learned Magistrate are that in the cross-examination P.W.1 admitted about filing of divorce petition by R.1 and she is getting Rs.15,000/- p.m. towards interim maintenance therein and all the harassment alleged by her was occurred at Dubai for which she did not complain even to her mother at any time and she did not file any document to show income of R.1 much less 22,872 Dirhams per month as Financial Analyst. Exs.P.15 to P.21 are the e-mail communications between the R.1 and the petitioner. P.W.2 no other than the mother of P.W.1 deposed of for performing marriage spent Rs.10,00,000/- which includes presentation of 10 tulas of gold, 1kg. silver and cash of Rs.50,000/-. What P.W.2 deposed is R.1 harassed the petitioner to obey the demand of R.2 and the petitioner was brought to Puttaparthi forcibly by R.2 and confined her in a room by R.2 and R.3 and the petitioner could escape and joined her mother and when she tried to contact the R.2 she was even abused and refused for accepting the petitioner even when the petitioner along with her daughter went to Puttaparthi to join. In fact, this improvement of she along with her daughter, the petitioner went to Puttaparthi to join back for not a pleading and there is no any exchange of notices even from her side in particular among Exs.P.1 to P.21 but for the e-mail communications supra under Exs.P.11,P.12, P.14 and P.18. No doubt there is no any independent evidence from the petitioner's side what R.W.1-maternal uncle of R.1 deposed is that only an amount of Rs.3,00,000/- spent for the marriage and it is petitioner that left company of R.1 and R.W.2-another uncle of R.1 also deposed same version.

8. Coming to R.W.3 so called independent witness, there were disputes between the P.W.1 and R.W.1 and there were consultations and R.Satyanarayana Raju R.W.1 uncle of R.1-revision petitioner even tried to settle the matter but in vain. R.2 mother-in-law of petitioner came to the witness box as R.W.4 saying it is the fault of the petitioner in disrupting the marital relationship of her son-R.1 which resulted in his filing divorce petition. What R.W.4, R.2 deposed is out of his total earnings of 22,872 Dirhams, he could save only 4456 Dirhams and the petitioner was never ill-treated and there was no demand for any amount of dowry and her claim of compensation of Rs.50,00,000/- is baseless. R.W.4 deposed in the cross-examination that for the function hall, the rents were paid by the petitioner and her mother and she does not know about gold given to P.W.1 by her mother. The mother of the petitioner spent Rs.10,00,000/- for performing the marriage. What R.W.5-R.1 deposed is 25 tulas of gold and sarees worth of one lakh presented by his mother to the petitioner and the petitioner herself left his company and he filed divorce petition therefrom and regarding his earnings and savings he reiterated what R.W.4 deposed and claiming that he is paying Rs.15,000/- per month towards interim maintenance in the divorce petition besides Rs.5,000/- per month herein and he spent Rs.15,00,000/- for travelling purposes and attending Courts and his earnings are Rs.22,872 Dirhams exclusive of deductions and P.W.2 mother of petitioner spent Rs.10,00,000/- for the marriage and he does not remember how much gold presented to P.W.1 by her mother P.W.2. He deposed that they stayed in the house of his elder sister for one and half month and he received several mails under Ex.P.14 and he did not issue any notice or any written communication to P.W.1 to join him. He admitted further of travelling expenses of P.W.1 also borne by mother of P.W.1. It is this evidence that resulted in appreciation before the learned Magistrate in

saying with regard to house property and alleged plots sought for attachment etc., by the petitioner, there is no basis to grant such relief but for the other and of which coming to maintenance there is no evidence to show that she is able to maintain herself and working anywhere with earnings but for living with her mother after she was deserted by R.1 for his not responding even to the mails with no like or indication by him even asking her to join despite sufficient income of 23,872 Dirhams per month as Financial Analyst at Dubai even from his version of after his expenditure what he left with is 4500/- Dirhams which amounts to Rs.70,000/- per month in our currency thereby Rs.30,000/- per month towards maintenance in the same status to the petitioner is just to award though claimed by her Rs.50,000/-per month and regarding compensation of Rs.50,00,000/- claimed under various heads except making a bald claim of emotional distress, there is no basis but for to say admittedly an amount of Rs.10,00,000/- was spent for the marriage of the petitioner by her mother including for payment of rent to the function hall and travelling expenses for P.W.1 to Dubai and thereby just to award 20lakhs towards compensation.

9. What the lower appellate Court observed in confirming the order of the Magistrate, dismissing the rival appeal claims by both sides one as excessive and the other as utterly low. The evidence of R.W.4 and R.W.5 apart from others clearly show the P.W.2 mother of P.W.1 spent about 10lakhs for performing the marriage, the evidence on record show some gold ornaments given to P.W.1 by her mother and not a case of no gold ornaments given and P.W.1 deposed about she was harassed at Dubai and at Puttaparthi and thereby entitled to the relief awarded by the trial Court for nothing to interfere.

10. Even by sitting in revision from the factual matrix and from the concurrent findings, so far as the compensation, there are acts alleged of harassing at Dubai admittedly for they might have lived there and at Puttaparthi in the hands of R.1 and R.2 it is not a case of she did not live with them there. There are mails sent by the petitioner and there is no response or notice but for directly filed the divorce petition without basis even to say she neglected or refused to join and even efforts through mediators undisputedly failed; there is nothing solely attribute fault of the petitioner.

11. Having regard to the above and for the marriage more than ten lakhs spent by the petitioner's mother besides what the gold ornaments presented to petitioner, there is no evidence even of gold ornaments are remained there at the in-laws and there is no basis even of she came from Puttaparthi with suitcase could not bring her ornaments for not a case of not even allowed, but for wearing clothes to leave the house. For the harassment she suffered and for the expenses for the marriage and also going to Dubai for the air tickets etc., incurred, it is just to award Rs. 15,00,000/- instead of Rs. 20,00,000/- as compensation so to reduce.

12. Even so far as the maintenance at Rs. 30,000/- per month awarded out of 23,872 Dirhams what the R.W.5 admittedly earning even the Courts below stated 4500 Dirhams comes to Rs. 70,000/- the gross earnings therefrom comes to more than 3 lakhs, what the maintenance awarded of Rs. 30,000/- per month also no way requires interference for nothing to show wife got any earnings.

13. Accordingly and in the result, the revision is allowed in part while confirming the quantum of maintenance however reducing from 20 lakhs to 15 lakhs. In other respects, the orders of the Courts below holds

good. There is no order as to costs. Miscellaneous petitions, if any pending, shall stand closed.

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Dr. B. SIVA SANKARA RAO, J

Date:03.02.2017  
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