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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 166/2013**

RAMANAND AMIT

..... Petitioner

Represented by: **Mr. Anurag Jain, Adv.**

versus

RUHI RAMANAND

..... Respondent

Represented by: **Mr. Anil K. Batra, Adv.**
SI Kishor Prasad, PS Greater
Kailash.

+ **CRL.REV.P. 275/2013 & CrI.M.A. 5788/2013**

RUHI RAMANAND

..... Petitioner

Represented by: **Mr. Anil K. Batra, Adv.**

versus

SHRI RAMANAND AMIT

..... Respondent

Represented by: **Mr. Anurag Jain, Adv.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

12.01.2017

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1. Ruhi Ramanand filed an application before the learned Metropolitan Magistrate under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short PWDV Act) which was dismissed vide order **CRL.REV.P. Nos. 166/2013 & 275/2013**

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dated 27th March, 2012 noting that the onus was on the complainant to prove that she was legally married to the respondent or both of them were qualified to enter into a legal marriage or were unmarried at the time of marriage. Further no evidence was led to prove that they resided in the rented accommodation for a couple of years as husband and wife in the form of either rent agreement or by examining any witness of the locality. The only document filed by the complainant to prove the marital relationship was the medical document of the hospital which has allegedly been signed by Ramanand Amit as her husband and the complainant was not competent to prove the signatures of Ramanand Amit on the said document. However, the interim maintenance and monthly rent of the accommodation was not directed to be refunded.

2. Challenging the order dated 27th March, 2012 dismissing the complaint under Section 12 of the PWDV Act, Ruhi Ramanand filed an appeal under Section 29 of the PWDV Act before the learned ASJ which was disposed of vide impugned order dated 22nd January, 2013 directing Ramanand Amit to pay a lump sum compensation of ₹2 lakhs. Against the order dated 22nd January, 2013 both the parties have preferred revision petitions before this Court.

3. Learned counsel for Ramanand Amit at the outset submits that since vide the impugned order he was directed to pay a lump sum compensation of ₹2 lakhs and he challenged the same on the ground that he was not legally required to pay the said amount, however having paid ₹2 lakhs to Ruhi Ramanand he does not press the revision petition. Thus CRL.REV.P. 166/2013 is dismissed as withdrawn.

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4. The findings of the learned Appellate Court in Para 14 and 15 of the impugned order are as under:

"14. Appellant in the present case, has placed on record overwhelming evidence, which has remained totally unimpeached. She placed on record several photographs, which are posed by the parties at several places and time including at the time of cutting of anniversary cake. Coupled with this, is the fact that respondent filed pre-admission form (Ex.CW1/16) in his own handwriting and signed consent form (Ex.CW1/15) as a husband at the time of admission of the appellant in the Modi hospital. There is report of Protection Officer on record and in her affidavit, appellant has categorically deposed that she was living with respondent at 87/2, Jamroodpur, Greater Kailash-I, New Delhi since 11.11.2005 to March 2008. Admittedly, the testimony of appellant has remained unchallenged as respondent failed to cross examine her despite numerous opportunities granted to him in this regard. Why then, her rebutted testimony should be discarded?"

15. When the evidence adduced by appellant is considered as a whole it is obvious that, respondent and appellant represented themselves as husband and wife before the society. Documents placed on record by the appellant have remained unrebutted by the respondent and these documents stand proved. No suggestion has been given on behalf of respondent to the appellant that averments made by her are false in any manner. It is true, that only photographs may not be substantive proof of the fact that appellant and respondent are wife and husband. Court has to consider evidence in its entirety. In the present case, there is not only un-shattered and un-impeached testimony of appellant, but also several documents on record, e.g. photographs, medical record and also FIR No.118/08 u/s 420/376/406 IPC and the only reasonable conclusion which can be drawn, is that appellant and respondent voluntarily co-habited and presented themselves out to the world as like

spouse for a significant period of time. Material on record shows that it is not a solitary incident but relationship in the nature of marriage between them, continued for more than two years, since 11.11.2005, when so called drama of marriage with appellant was performed by respondent. This Court finds that learned Trial Court committed error in not properly appreciating the evidence on record and ignoring un-rebutted testimony of appellant. Thus, evidence on record establishes that parties were in a relationship in the nature of marriage and that appellant was a victim of domestic violence and thus, she required protection. Therefore, impugned order deserves to be set aside and recalled."

5. The finding of the learned Trial Court that the testimony of Ruhi Ramanand has gone unchallenged for the reason that despite opportunities Ramanand Amit failed to cross-examine her is not erroneous. Further, the learned Appellate Court rightly took into consideration the fact that the carry home salary of Ramanand Amit was about ₹30,000/- whereas that of Ruhi Ramanand was ₹7,500/- and Ramanand Amit had to look after a family which comprises of his wife and four daughters.

6. Considering the facts and circumstances of the case, the order passed by the learned Additional Sessions Judge granting a lump sum compensation of ₹2 lakhs cannot be said to be illegal or perverse warranting interference. Hence, CRL.REV.P. 275/2013 & Crl.M.A. 5788/2013 are dismissed.

Mukta Gupta
MUKTA GUPTA, J.

JANUARY 12, 2017
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