



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

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CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C (MD) Nos.223 and 224 of 2018
and
Crl.M.P. (MD) Nos.2939 and 2940 of 2018

1.Ramachandran
2.Kazhanjiam
3.Ramraj

: Petitioners
in Crl.R.C (MD) No.223 of 2018)

Ramachandran

: Petitioner
in Crl.R.C (MD) No.224 of 2018

Vs.

Subapriya

: Respondent/Petitioner/
Petitioner
in both the Crl.R.Cs

COMMON PRAYER: Revisions are filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the entire records, relating to the order dated 26.07.2017 made in C.A.Nos.65 and 74 of 2016 respectively on the file of the learned III Additional District and Sessions Judge, Tirunelveli, Tirunelveli District against M.C.No.14 of 2015 before the Judicial Magistrate No.1, Tirunelveli and set aside the same.

For Petitioners
(in both the Crl.R.Cs)

: M/s.F.X.Eugene

For Respondent
(in both the Crl.R.Cs)

: Mr.R.Ponkarthikeyan

ORDER

The revision petitioner/Ramachandran is the husband of the Subapriya/respondent herein. The matrimonial relationship got restrained leading to file the divorce petition by the husband,



restitution of conjugal rights by the wife, maintenance petition by the wife and petition under Domestic Violence Act by the wife. The divorce petition filed by the husband seems to have been dismissed and against which CMA has been filed and the same is pending.

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2. In Maintenance Case No.76 of 2015 filed under Section 125 Cr.P.C before the Family Court, Tirunelveli, the Court has fixed maintenance of Rs.6,000/- per month from the date of filing till the date of disposal for both the wife and child and from the date of order, Rs.7,500/- for the wife and Rs.5,000/- for the child. In the application filed under Section 18 of the Protection of Women from Domestic Violence Act, 2005, the learned Judicial Magistrate No.I, Tirunelveli has passed the following Protection order:-

(i). The petitioner Subapriya shall not be evicted from her husband's house. She should not be tortured and harassed by her husband/respondent and his family members.

(ii) The petitioner/Subapriya should not be evicted from the house bearing No.40 new No.32, Manthi Thoppu Salai, Kovilpatti and also the first respondent (Ramachandran) should not let the premises for rent, mortgage, sell or create any charge.

(iii) The petitioner/Subapriya and her child Krithikram are entitled the maintenance of Rs.8,000/- and Rs.5,000/-, totally a sum of Rs.13,000/- per month which shall be payable on or before 5th day of every month. The said maintenance amount is inclusive of Rs.12,500/- awarded by the Family Court in M.C.No.76 of 2015. Further the trial Court has awarded compensation of Rs.2,00,000/- for the mental agony under Section 22.

3. The revision petitioners herein aggrieved by the order passed by the learned Judicial Magistrate No.I, Tirunelveli in respect of the restrictions imposed on letting out, mortgage, alienating or charging the property bearing No.40 New No.32, Manthi Thoppu Salai, Kovilpatti and also fixation of maintenance of Rs.13,000/- (Rs.8,000+Rs.5,000) per month and also the compensation of Rs.2,00,000/-, declined to award other protection orders/monetary relief sought by Subapriya (wife). Ramachandran (husband) as well as Subapriya(wife) had preferred the appeals before the Third Additional District and Sessions Judge, Tirunelveli, in Crl.A.No.65 of 2016 (by Subapriya) and Crl.A.No.74 of 2016 (by Ramachandran). The lower appellate Court dismissed the appeal in C.A. No.74 of 2016 filed by the Ramachandran and partly allowed the appeal in C.A.No.65 of 2016 by Subapriya. Restrictions imposed on the first respondent in respect of the residential house bearing No.40 New No.32 has been extended to the second and third respondents also, who are the father and mother of the first respondent/ Ramachandran. Aggrieved by the common order passed by the lower appellate Court in dismissing the appeal in Crl.A.No.74 of 2016 and partly allowing the appeal in

Crl.A.No.65 of 2016, two criminal revision cases have been filed.

4.The worksheet memo filed by the Ramachandran indicates that pursuant to the order passed by the Family Court in M.C.No.76 of 2015, he has cleared all the arrears and till date he has meticulously paying the maintenance amount of Rs.12,500/- per month. The only dispute in this aspect is the enhance amount of Rs.500/- towards maintenance awarded by the learned Judicial Magistrate No.I, Tirunelveli in M.C.No.14 of 2015.

5.As far as the other contention regarding the restriction of alienating the property as well as letting out the property to generate the income, the learned counsel for the respondent herein would submit that presently the respondent is not residing at Kovilpatti. It is also an admitted fact that the respondent's husband alone is not the owner of the said property.

6.Considering this fact and submissions, this Court is of the opinion that to give quietus to all the issues, the order of maintenance of Rs.13,000/- which includes the maintenance of Rs.12,500/- awarded by the Family Court, Tirunelveli in M.C.No.76 of 2015 is hereby confirmed. The restrictions imposed on the respondents in M.C.No.14 of 2015 regarding the residential premises bearing No.40 New No.32 is set aside.

7.It is brought to the notice of this Court that apart from the money which the revision petitioner has paid towards the maintenance as found in the worksheet, he has deposited Rs.1,00,000/- in the account of M.C.No.14 of 2015 in compliance with the direction given by this Court vide order dated 13.03.2018. Since the revision petitioner is complied with the order passed by this Court in respect of maintenance, the compensation amount of Rs.2,00,000/- is reduced Rs.1,00,000/-.

8.As far as the compensation is concerned pursuant to the order passed by this Court in Crl.M.P.(MD) No.523 and 525 of 2018 dated 13.03.2018, the revision petitioner/husband herein has deposited Rs.1,00,000/- in the M.C.No.14 of 2015 on the file of the learned Judicial Magistrate No.1, Tirunelveli . This Court has already permitted the respondent/wife to withdraw the same. If the money is not so far withdrawn the same may be withdrawn by the respondent.

9.In the result, Clause-III of the order passed in M.C.No.14 of 2015 by the learned Judicial Magistrate No.I, Tirunelveli imposing the condition regarding the enjoyment of the house is set aside and the compensation is reduced to Rs.1,00,000/- and the order in respect of maintenance amount of Rs.13,000/- inclusive of Rs.12,500/- in M.C.No.14 of 2015 on the file of the learned Judicial Magistrate No.I, Tirunelveli is hereby confirmed.



10. These Criminal Revision Cases are partly allowed on above terms. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Third Additional District and Sessions Judge,
Tirunelveli, Tirunelveli District.

2. The Judicial Magistrate No.1, Tirunelveli.

+ 2 CC TO Mr.F.X.EUGENE, ADVOCATE IN SR Nos. 83867 & 83868

+ 1 CC TO Mr.R.PON KARTHIKEYAN, ADVOCATE IN SR No. 84206

CP

TE/SV/SAR-1 : 30/10/2018 : 4P/6C

ORDER MADE IN
Crl.R.C(MD)Nos.223 and 224 of 2018 and
Crl.M.P.(MD) Nos.2939 and 2940 of 2018
12.09.2018