



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.09.2018
CORAM:
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.R.C(MD)No.677 of 2016
and
Cr1.M.P(MD) No.9488 of 2016

T.Hari ... Petitioner
Vs.

Suganya ...Respondent

PRAYER: Revision filed under Section 397 r/w.401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed by the learned Family Court Judge, Madurai in M.C.No.113 of 2014 dated 04.08.2015 examine them and set aside the order.

For Petitioner : Mrs.D.Geetha

For Respondent : Mrs.R.Suganya
Party in Person

ORDER

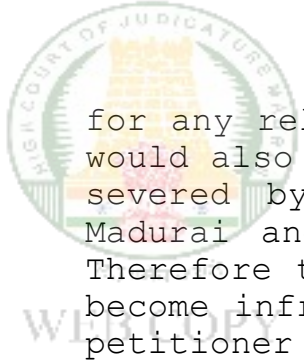
This Criminal Revision Petition has filed to set aside the order passed by the Family Court Judge in M.C.No. 113 of 2014, dated 04.08.2015.

2. Heard the learned counsel for the petitioner and the respondent who appeared party in person.

3. The complaint under section 18, 19, 20 and 22 of the Domestic Violence Act filed by the respondent /wife seeking various protective reliefs including maintenance, return of sreedhana properties and residential right has been considered by the trial court at length.

4. Many of the allegations made by the respondent has been found not been proved. However taking note of the fact the marital status between the revision petitioner and respondent which subsist, the trial court has passed directions to the revision petitioner herein. 1) to accommodate the respondent in the residence if both willing to live together or to Pay Rs.3500/- for her residential expenses, 2) direction to return back to the respondent her sreedhana articles given by her parents.

5. The contention of the revision petitioner /husband is that the trial court has held that no domestic violence has been perpetuated against the respondent (wife). Hence she is not entitled



for any relief under the Domestic Violence Act. The learned counsel would also say that relationship between the respondent has now been severed by the decree of divorce granted by the Family Court, Madurai and the same has now been confirmed by the High Court. Therefore the residential right as directed by the trial court has become infructuous. As far as maintenance is concerned the revision petitioner submitted that the claim for maintenance has been fixed as Rs.5000/- earlier in MC 82 of 2013. Later it has been enhanced as Rs.15000/- which is confirmed by the appellate Court. However, it is pointed out by the respondent herein that till date no money towards enhanced maintenance has been paid.

6. The learned counsel for revision petitioner admits that the revision petitioner has not paid the enhanced maintenance. In this regard the learned counsel for the revision petition would submit that so far he has paid only Rs.1,90,000/- .

7. A cumulative consideration of the facts and the contentions made by the revision petitioner and the respondent besides the decree of dissolution of the marriage passed by the family court , the order passed in MC No.113 of 2014 filed under the provisions of Protection of Women from Domestic Violence Act needs reconsideration.

8. Therefore this Court passes the following order:

i) In view of the severance of matrimonial relationship between the revision petitioner and the respondent and in view of fixing maintenance at the rate of 15000/- per month in MC 82 of 2013, the first direction passed by the trial court has become infructuous.

ii) Due to subsequent event and merger of the maintenance amount as per the order passed by in MC 82 of 2013 is enhanced by the order of the High Court in Crl.RC. 529 of 2015 dated 22.12.2017.

iii) The total maintenance of Rs.15,000/- passed in M.C.No.82 of 2013 alone liable to be paid.

iv) Regarding hand over to sreedhana articles to the petitioner, the learned counsel for the petitioner submits that whatever sreedhana articles is with the revision petitioner he is ready to hand over the same. The respondent herein states that if all her articles are handed over to her in the presence of Court she is ready to receive it.

v) The counsel appearing for the revision petitioner apprehends that if she refuses to receive the same it will be very difficult for his client to take back the articles,

vi) The respondent who is present today in the Court undertakes to receive the articles in the presence of Court and the same is recorded.

vii) The Crl.MP 67 of 2018 in MC 82 of 18 on the file of the Family Court, Madurai for enforcing recovery of maintenance of arrears is posted on 26.10.18. On that day the revision petitioner shall hand over the articles of the respondent and the same can be received by the respondent after giving acquittance for the receipt.



vii) The Family Court Madurai is directed to expeditiously dispose of the Crl.M.P(MD) No. 67 of 2011 filed by the respondent herein for recovery of maintenance amount. In case if the revision petitioner fails to comply the order regarding payment of maintenance, necessary action may be taken for recovery. In any event, the Family Court, Madurai is directed to ensure the orders passed by the high court regarding enhancement of maintenance properly compiled.

viii) It is reported by the respondent that whereabouts of the revision petitioner is not known and it is difficult for her to serve summons.

9. The learned counsel appearing for the revision petitioner herein undertakes to appear on behalf of her client before the Family Court, Madurai and contest the petition filed and will not herein after force the respondent herein to issue summons and search warrant.

10. Accordingly the revision petition is disposed of. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Judge, Family Court,
Madurai.

+3CC to M/s.R.SUGANYA, Advocate, SR.No. 87516

+1CC to M/s.D.GEETHA, Advocate, SR.No.87810

Crl.R.C(MD)No. 677 of 2016
27.09.2018

AAV

ES/SKN/RSK/SAR 2/05.10.2018/3P/6C