

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.08.2018
Pronounced on : 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.Nos.1317 and 1283 of 2015 and
M.P.Nos.1 & 1 of 2015 and
Crl.M.P.Nos10158 & 10159 of 2018

S.RajkumarPetitioner in both
the Revisions/1st Respondent

-Vs-

J.Padmapriya ...Respondent in both the
Revisions/Petitioner

Prayer in both the Revisions:-

These Criminal Revision cases are filed under Sections 397 read with Section 401 of Cr.P.C. against the common order dated 05.11.2015 made in CRP.No.1 & 4 of 2013 by the learned II Additional District Judge, Tindivanam, confirming and enhancing the order of maintenance dated 07.11.2012 in M.C.No.6 of 2010 by the learned Judicial Magistrate No.I, Tindivanam.

For Petitioner : Mr.S.Nagarajan - in both the Rcs

For Respondent : Mr.N.Siva Kumar - in both the RCs

COMMON ORDER

The petitioner is husband and respondent is wife. Marriage between the petitioner and respondent has been solemnized on 30.08.2007 at Tindivanam as per the Hindu Rites and Customs and after the marriage both of them lived together in the house of the revision petitioner/husband at Teynampet. The respondent/wife has filed a case under Domestic Violence Act against the petitioner/husband and others stating that they made dowry harassment and cruelty, which was taken on file in M.C.No.6 of 2010 by the learned Judicial Magistrate No.I, Tindivanam. The learned Judicial Magistrate, after trial, by order dated 07.11.2012, allowed the petition in favour of the

respondent/wife and ordered protection, directed the petitioner/husband to arrange rented house for respondent/wife and further directed the petitioner to pay a sum of Rs.10,000/- towards litigation expenses under Section 20 and Rs.20,000/- towards compensation under Section 22 of Protection of Women from Domestic Violence Act.

2 Aggrieved against the same, both the petitioner and the respondent had preferred separate revisions before the II Additional District and Sessions Judge, Tindivanam, in CRP.Nos.4 and 1 of 2013 respectively. The II Additional District Judge, after hearing both the parties, by a common order dated 05.11.2015, dismissed the revision filed by the petitioner/husband and allowed the revision filed by the respondent/wife and enhanced the litigation expenses from Rs.10,000/- to Rs.25,000/- and the compensation amount from Rs.20,000/- to 75,000/-, against which, husband is before this Court with these two criminal revisions.

3 Learned counsel appearing for the revision petitioner/husband would submit that the respondent/wife only deserted the petitioner and initiated various proceedings against the petitioner and his family members. The husband had been paying the rent for the house in which the petitioner and respondent lived. Before marriage, the respondent/wife was studying M.E. and earning Rs.18,000/- p.m. and after marriage, the petitioner only spent money for her to complete M.E. and the respondent is now earning Rs.35,000/- p.m. and the petitioner has also produced a proof for the same. The respondent/wife has caused mental torture to the petitioner by filing so many petitions and dragged the petitioner to the Court. Therefore, the petitioner/husband need not pay any litigation expenses or compensation to the respondent/wife, since she only initiated various proceedings against the petitioner and she is earning more than Rs.30,000/- p.m. and is living in own house with her parents. Both the Courts below had failed to appreciate the above facts and erroneously ordered the petitions in favour of the respondent/wife. The learned II Additional District Judge, without assigning any valid reason has enhanced the amount awarded by the trial Court, which warrants interference of this Court.

4 According to the learned counsel for the respondent/wife, the petitioner and his family members had made dowry harassment and cruelty and hence she initiated proceedings under Domestic Violence Act and because of the cruelty, the respondent/wife could not continue her studies. The

petitioner/husband had not paid the rent for the house and the landlord initiated rent control proceedings against the petitioner and the petitioner left the home, without even intimating to the respondent. Therefore, as no other option, the respondent gone to her parent's home and living with them. The petitioner and his family members had made several untold cruelty to the respondent and hence the respondent filed a case against the petitioner and others. The trial Court had rightly appreciated the evidence on record, but, awarded very meagre amount and hence she filed revision before the II Additional District Judge, Tindivanam, and the learned District Judge, has rightly enhanced the amount ordered by the trial Court, which does not call for any interference.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that the respondent has filed a case under Domestic Violence Act, which was allowed in her favour. The main contention of the petitioner/husband is that the respondent/wife has initiated several proceedings against the petitioner and his family members and she is earning more than Rs.30,000/- p.m. According to the respondent, the petitioner and his family members had made dowry harassment and cruelty and further the petitioner has not even paid the rent for the house, in which they both lived together and the landlord has initiated rent control proceedings and evicted the respondent/wife. On a reading of the entire records, it reveal that both the petitioner and the respondent are equally educated and there was some misunderstanding between them and due to that they both living separately. The trial Court has awarded Rs.10,000/- towards litigation expenses under Section 20 and Rs.20,000/- towards compensation under Section 22 of Protection of Women from Domestic Violence Act. The learned II Additional District and Sessions Judge, Tindivanam, has enhanced the amount awarded towards litigant expenses from Rs.10,000/- to Rs.25,000/- and the amount for compensation from Rs.20,000/- to Rs.75,000/-. It is seen that the learned II Additional District and Sessions Judge, while enhancing the amount awarded by the trial Court, did not assign any reason for the same. Therefore, this Court is incline to set aside the order passed by the learned II Additional District and Sessions Judge, in CRP.Nos.1 & 4 of 2013 dated 05.11.2015.

7 Accordingly, the order dated 05.11.2015 made in CRP.Nos.1 & 4 of 2013 by the learned II Additional District Judge, Tindivanam, is hereby set aside and the order dated

07.11.2012 made in M.C.No.6 of 2010 by the learned Judicial Magistrate No.I, Tindivanan, is hereby restored. Both the criminal revision cases are allowed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional District & Sessions Judge, Tindivanam.
2. The II Additional District Judge, Tindivanam.
3. The Judicial Magistrate No.I, Tindivanam.
4. Do Thro' The Chief Judicial Magistrate, Villupuram.

+1cc to Mr.S.Nagarajan, Advocate, S.R.No.39596

+2cc to Mr.N.Siva Kumar, Advocate, S.R.No.40187, 40186

CrI.R.C.Nos.1317 and 1283 of 2015

KK(CO)
CS/04/06/2019



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