

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 19.06.2019

CORAM:
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.65 of 2012 and
M.P.No.2 of 2012

J.Karthikeyan

...Petitioner/Respondent No.1

Vs.

R.Preethi

...Respondent/Petitioner

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure seeking to call for the record and set aside the judgment in Criminal Appeal No.413 of 2008, dated 16.08.2011 by the learned Principal District and Sessions Judge, Coimbatore, confirming the compensation awarded in Crl.M.P.No.5583 of 2008 dated 08.12.2008 by the learned Judicial Magistrate No.VII, Coimbatore.

For Petitioner : Mr.S.M.Nandhie Devhan

For Respondent : Mr.K.R.Shankar for
M/s.K.S.Karthik Raja

ORDER

The petitioner is husband and respondent is wife. The respondent/wife filed a petition claiming compensation under Sections 20 and 22 of Protection of Women from Domestic Violence Act, 2005, (for brevity 'the DV Act') and Section against the petitioner and made allegations under Section 4 of Domestic Violence Act against the petitioner and his family members and also for the offence under Section 498(A) of IPC, in Crl.M.P.No.5583 of 2008, before the learned Judicial Magistrate VII, Coimbatore. The learned Judicial Magistrate, after hearing both the parties, by order dated 08.12.2008, awarded compensation for a sum of Rs.25,00,000/- and refused other reliefs sought for. Against the same, the petitioner and the respondent had filed separate appeals in C.A.No.413 of 2008 and 122 of 2009 and both the appeals were taken up together by the learned Principal District and Sessions Judge, Coimbatore, and dismissed the same by confirming the award passed by the learned Judicial Magistrate VII, Coimbatore. Being not satisfied with the order of the learned Principal District and Sessions Judge, the husband has filed the present revision before this Court.

2 According to learned counsel appearing for the petitioner, the respondent/wife has made several allegations against the petitioner, but, she has not established the same by producing either corroborative evidence or the medical evidence. Further he would submit that the award of compensation of Rs.25.00 lakhs is on higher side and the respondent/wife has not proved the income of the petitioner and the compensation of Rs.25.00 lakhs under Section 20 of DV Act could not be made and it could be made only under Section 22 of the DV Act. The respondent/wife has failed to prove the allegations made against the petitioner in her complaint and both the Courts below had failed to consider the fact that the respondent/wife has not established the allegations made against the petitioner/husband and erroneously awarded compensation, which warrants interference.

3 The learned counsel appearing for the respondent/wife would submit that when the wife made some allegations against the husband, it is for the husband to come into witness box and deny the same, since the allegations levelled against the petitioner is between husband and wife and is within the four corners of the room. The petitioner/husband did not appear before the Court and was not subjected to cross examination. The allegations of this nature is difficult to prove with corroborative evidence. Both the Courts below, even though dismissed the other reliefs, but, however, granted an award of compensation of Rs.25.00 lakhs and the respondent/wife had sought relief under Section 22 of the DV Act, but the Court has granted the award under Section 20 and hence wrong quoting of provision is not a reason to disallow the compensation, unless there is any perversity in appreciation of evidence while deciding the case by the Court below.

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

5 It is seen that marriage between petitioner and respondent has been solemnized on 23.10.2007 and they hardly lived only for one month. After marriage, they both went to Singapore, since the revision petitioner was working as Software Engineer at Singapore, where, the respondent/wife has faced untold harassment caused by the petitioner. Since the respondent/wife could not bear the harassment caused by the petitioner/husband, she left Singapore and revealed the facts to her parents and complaint was lodged by them. Even though, the allegations are not substantiated with evidence, on reading of the nature of the allegations, one cannot expect the wife to disclose the incident that would take place during night hours between the husband and wife immediately. In this case, the respondent/wife has clearly stated that she did not reveal the

facts immediately soon after the marriage. Considering the nature of allegations and the fact that the revision petitioner/husband did not come to the witness box and deny the allegations and he was not subjected to cross examination, the Court can easily draw adverse inference and the revision petitioner has to deny the same in the manner known to law. The revision petitioner has not even examined any other witness or produced any documents denying the allegations made by the respondent/wife. Therefore, both the Courts below had rightly appreciated the evidence and on reading of the entire materials, this Court does not find any perversity in the appreciation of evidence by the Courts below. Further the learned counsel prays to reduce the compensation of Rs.25,00,000/-. It is seen that the petitioner/husband was working as Software Engineer at Singapore in the year of 2008 itself and he has not produced any proof to show his monthly income and in the absence of the same this Court cannot interfere with the award passed by the Courts below.

6 In the result, the criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No.VII,
Coimbatore.

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Cr1.R.C.No.65 of 2012 and
M.P.No.2 of 2012

KK (CO)

RRS (20/08/2019)

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