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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.R.C.No.658 of 2019 and

CrI.M.P.No.9763 of 2019

1. Murugesan

2. K.Palanisamy

... Petitioners/Respondents

Vs.

Padmavathy

... Respondent/Complainant

PRAYER: The Criminal Revision Petition has been filed, under Sections 397 and 401 of Cr.P.C., seeking to set aside the judgment passed by the learned V Additional District and Sessions Judge, Coimbatore in C.A.No.251/2017, dated 26.09.2018, partly allowing the judgment in C.M.P.No.6081/2015, dated 06.05.2016, in D.V.A.No.44/2013, passed by the learned Judicial Magistrate No.VI, Coimbatore.

For Petitioners: Mr.A.S.Balaji

For Respondent : Mr.M.Mariappan

O R D E R

- 1.This Criminal Revision Petition has been filed by the petitioners, against the order dated 26.09.2018, made in C.A.No.251/2017, by the learned V Additional District and Sessions Judge, Coimbatore, partly allowing the appeal and modifying the order dated 06.05.2016, in C.M.P.No.6081/2015, in D.V.A.No.44/2013, passed by the learned Judicial Magistrate No.VI, Coimbatore, modifying the amount of interim maintenance from Rs.15,000/- to Rs.7,000/- per month and further entitling the petitioner's to receive the deposit amount of Rs.50,000/-, deposited to the account of DVA.No.44/2013.
- 2.The brief facts of the case are that the respondent/wife had filed DVA.No.44/213, against the revision petitioners who are her husband and father-in-law, under the Domestic Violence Act. During the pendency of the proceedings, the respondent/wife had filed C.M.P.No.6081/2015, seeking the relief of interim maintenance at Rs.15,000/- per month.
- 3.The averment in C.M.P.No.6081/2015 is that the marriage between the respondent/wife and the 1st petitioner/husband took place on 18.11.2012, at Perur Patteeswara Temple and at the time of marriage, the 1st petitioner/husband family had



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demanded 5 sovereigns of jewels from the respondent/wife's parents and they have also taken an amount of Rs.50,000/- from the respondent/wife towards marriage expenses. At the time of marriage, it had been informed by the 1st petitioner/husband's family members that the petitioner was owing about seven Cents of land and that they are owing two tempos and earning Rs.1,00,000/- per month. The further allegation is that after the marriage, the 1st petitioner/husband had beaten the respondent/wife to remove the Thali Chain and later demanded 10 sovereigns of jewels from the respondent/wife and compelled her to get it from her brother and thereafter, respondent/wife's father died on 14.01.2015 and thereafter, the revision petitioners prevented her from entering into the matrimonial house. Since, the respondent/wife was unable to maintain herself, she had filed a petition, seeking interim maintenance at the rate of Rs.15,000/- per month.

4. The 1st petitioner/husband remained exparte and the Trial Court by order dated 06.05.2016, set the husband exparte and based on the records submitted by the respondent/wife, had come to the conclusion that the 1st petitioner/husband is capable of paying Rs.15,000/- per month as interim maintenance and had directed the 1st petitioner/husband to pay Rs.15,000/- per month as interim maintenance.
5. As against the said order passed by the learned Trial Judge, the 1st petitioner/husband had filed an appeal before the learned V Additional District and Sessions Judge, Coimbatore, in C.A.No.251/2017. The Appellate Court, finding that no proof has been filed by the both parties, regarding monthly income of the 1st petitioner/husband and further finding that the main DVA.No.44/2013, is pending, had modified the interim maintenance from Rs.15,000/- to Rs.7,000/-. As against the same, the present revision petition has been filed.
6. The learned counsel for the petitioners would submit that the 1st petitioner is the husband and the 2nd petitioner is the father-in-law and the 1st petitioner is only a driver by profession and that no proof has been filed by the respondent/wife to show that the 1st petitioner/husband has been earning Rs.1,00,000/- per month and that the Trial Court without any basis had fixed the interim maintenance at Rs.15,000/- per month and the Appellate Court, though finding that no proof had been filed by the wife had reduced it to Rs.7,000/- which is also without any basis and thereby both courts have erred in passing the orders.



The Trial Court is directed to dispose of the D.V.A.No.44/2013, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The V Additional District and Sessions Judge, Coimbatore.
- 2.The Judicial Magistrate No.VI, Coimbatore.
- 3.The chief Judicial Magistrate,
Coimbatore.

Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+lcc to Mr.M.Mariappan, Advocate sr.90565

Cr1.R.C.No.658 of 2019

skv(co)
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