

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.23000 of 2015 and
CrI.M.P.No.1 of 2015

1.M.E.Srinivas Rao
2.M.C.Eshwara Rao
3.Vathchala Bai
4.Heera Bai

... Petitioners

Vs.

R.Lakshmi Bai

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the above M.C.No.21 of 2014 on the file of Judicial Magistrate I, Vellore.

For Petitioners : Mr.N.Sivaprakash

For Respondent : Mr.P.Jagadeesan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.21 of 2014, pending on the file of the Judicial Magistrate Court No.I, Vellore.

2.The respondent filed M.C.No.21 of 2014 under Sections 18, 19, 20 and 22 of the Prevention of Women from the Domestic Violence Act, 2005 and seeking personal protection, share in household, monthly maintenance and compensation.

3.The 1st petitioner is the husband of the respondent, the 2nd, 3rd & 4th petitioners are her father-in-law, mother-in-law and sister-in-law respectively. The gist of the case is that the marriage between the respondent and the 1st petitioner was solemnized on 19.10.2008. During the marriage, 20 sovereigns of gold jewels, 1 kg of silver and household articles were given as 'Sridhana'. After the marriage, the respondent and the 1st petitioner were residing along with the other petitioners as joint family. Initially, they were leading a happy marriage life and thereafter, at the instance of

petitioners 2 to 4, disturbance aroused in their matrimonial life. The 1st petitioner assaulted the respondent knowing well the respondent is pregnant, due to which, she swooned, no steps were taken to rescue her, ½ an hour later, she on her own regained, the petitioners not even provided water and food, heart beat of her foetus slowed down, but she was not taken to hospital for any treatment.

4. On 31.10.2009, the respondent gave birth to a female child Srinithy. The petitioners 2 and 3 on coming to know about the respondent giving birth to a female child, they were averse to it and failed to visit her and child in hospital. After discharge from the hospital, the respondent came back to her matrimonial home. The respondent was not allowed to visit her parents and have contact with them. On 26.11.2011, the respondent's brother proceeded to Sabarimalai Temple, for which, the respondent called the 1st petitioner to visit her brother. The petitioners 2 to 4 did not allow the respondent as well her husband. When she questioned the same, she was assaulted by all the petitioners and they made further demand of dowry and later, she was chased out from the matrimonial home. Thereafter, the respondent received an Advocate notice with false allegations on 12.12.2012, for which, a reply was sent on behalf of her on 29.12.2012. Refuting the reply, a rejoinder was sent by the petitioners on 21.01.2013. In the meanwhile, the 1st petitioner filed O.P.No.1023 of 2013 before the Family Court, Chennai seeking restitution of conjugal rights. The respondent appeared before the Family Court on 06.03.2014 and submitted that she has no objection to join her husband. On the same day, the O.P.No.1023 of 2013 was withdrawn and another O.P.No.843 of 2014 was filed and the next hearing date was on 08.04.2014.

5. Thus, the petitioners herein had caused mental harassment and inflicted physical assault on her. Hence, she sought for personal protection, share in household, monthly maintenance and compensation by filing the Maintenance Case before the learned Judicial Magistrate No.I, Vellore.

6. Mr. Sivaprakash, learned counsel for the petitioners filed a memo dated 09.09.2020 and submitted that the 1st petitioner filed F.C.O.P.No.58 of 2016, praying for divorce and the respondent filed F.C.O.P.No.421 of 2014, praying for restitution of conjugal rights. Both were tried together by the learned Family Judge, Vellore. The learned Family Judge, Vellore was pleased to decree divorce and dismissed the petition for restitution. Challenging the same, C.M.A.No.2941 of 2018 and C.M.A.No.352 of 2019 are filed before this Court by the respondent. The above Civil Miscellaneous Appeals came up before the Hon'ble Division Bench of this Court. The Hon'ble Division Bench was pleased to pass common judgment on 17.02.2020, confirming the Decree of Divorce passed in F.C.O.P

No.58 of 2016 by the learned Family Judge, Vellore and directed the respondent to withdraw all the cases filed by her against the petitioners and directed the 1st petitioner herein to pay a sum of Rs.25 lakhs to the respondent on or before 18.05.2020 and also directed the petitioner to pay a sum of Rs.15,000/- per month from March 2020 to May 2020 as monthly maintenance to the respondent, till the compliance of other conditions and also directed to return the cot and utensils to the respondent within a period of four weeks from the date of receipt of the judgment.

7.The learned counsel for the petitioners further submitted that due to the prevailing COVID-19 pandemic situation from 24.03.2020, the above directions could not be complied within time. Hence, the petitioners filed three C.M.P.Nos.8125, 8126 & 8130 of 2020 in C.M.A.No.2941 of 2018, praying for extension of time by three months for complying with the directions. Further, the learned counsel for the petitioners also filed the copy of e-mail sent to Mr.Jagadeesan, Advocate. The learned counsel for the petitioners produced the copy of the Judgment of Hon'ble Division Bench of this Court.

8.The learned counsel for the petitioners further submitted that the 1st petitioner paid monthly maintenance of Rs.15,000/- for three months, totally Rs.45,000/- by way of demand draft dated 14.09.2020 drawn on the respondent's bank namely Axis Bank. In the Judgment of the Hon'ble Division Bench, it is held as follows:-

"(vi)till the compliance as aforesaid, the respondent shall pay a sum of Rs.15,000/- per month on or before first week of every month;"

9.The learned counsel for the petitioners submitted that from reading the above, the understanding of the petitioners is that it is only for three months and hence, his client is unable to comply with the further payment. This Court by order dated 18.09.2020 directed the petitioners to file a memo to that effect. As per the order dated 18.09.2020, the petitioners filed a memo dated 23.09.2020, stating that the maintenance amount for the month of June, July, August, September 2020 for Rs.60,000/- (each month Rs.15,000/-) and a sum of Rs.25,00,000/-, thereby totalling Rs.25,60,000/- is paid by way of demand draft bearing number 004829 drawn on Axis Bank, Ekkattuthangal Branch, Chennai in the name of the respondent and produced the copy of the said demand draft before this Court and thereby, the 1st petitioner has complied with the entire monetary obligations as directed by this Court.

10.The learned counsel for the respondent submitted that he had received demand draft for Rs.45,000/- as stated above for a period of three months and received the demand draft bearing number 004829 for Rs.25,60,000/-. Hence, the respondent has no objection for quashing the proceedings against the petitioners.

11.This Court considered the rival submissions and perused the materials available on record.

12.The memo dated 23.09.2020 and the copy of the demand draft for Rs.25,60,000/- are produced and also the judgment passed in C.M.A.Nos.352 of 2019 and 2941 of 2018. It is seen that the Hon'ble Division Bench of this Court, by judgment, dated 17.02.2020 in C.M.A.Nos.352 of 2019 and 2941 of 2018, recorded the compromise between the parties with certain conditions. The divorce between the 1st petitioner and the respondent has become final, the respondent will not further pursue M.C.No.21 of 2014 and there is no claim between each other and all the proceedings between them to be given quietus.

13.Further, as per direction, the 1st petitioner paid Rs.25 lakhs by way of demand draft and also paid Rs.15,000/- per month from the March 2020 to September 2020 as stated above. In view of the same, the respondent has got no objection for quashing M.C.No.21 of 2014, pending on the file of the Judicial Magistrate Court No.I, Vellore.

14.In the result, this Criminal Original Petition stands allowed and the proceedings in M.C.No.21 of 2014 on the file of the Judicial Magistrate Court No.I, Vellore is, accordingly, quashed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CJ conf)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Vellore.

2.-Do-thro'the Chief Judicial Magistrate,
Vellore.

+3cc to Mr.S.Natarajan, Advocate SR.31895
+1cc to Mr.P.Jagadeesan, Advocate SR.32307

Crl.O.P.No.23000 of 2015

EV(CO)
CB(07/12/2020)



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