



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.365 of 2016

WEB COPY
Prabavathi

... Petitioner/Respondent/Petitioner

Vs.

1. Thangapandi
2. Pandi
3. Ammapillai
4. Ilayarasu
5. Prema
6. Jeyapraba

... Respondents/Appellants/Respondents

Prayer : This Criminal Revision petition filed under Sections 397 and 401 of Cr.P.C., to set aside the Judgment passed in C.A.No.8 of 2013 dated 26.02.2016 on the file of the I Additional District and Sessions Court, Madurai, partly confirming Cr.M.P.No.3839 of 2009 on the file of the Judicial Magistrate No.II, Usilampatti, dated 31.12.2012 and allow the criminal revision case.

For Petitioner	: Mr.J.Barathan, for M/s.T.R.Jeyapalam.
For Respondents	: Mr.G.Sundaram

ORDER

Heard the learned counsel on either side.

2. The petitioner got married to Thangapandi on 20.01.2008. The relationship between them came under strain. Therefore, the petitioner filed Cr.M.P.No.3839 of 2009 under the provisions of the Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate No.II, Usilampatti. The learned Magistrate granted threefold reliefs to the petitioner herein. The respondents were directed to return the petitioner's jewellery and also a sum of Rs.65,000/- which the trial Court found was the amount borrowed from the petitioner herein. The residence order was also passed in favour of the petitioner. Aggrieved by the same, the respondents filed Crl.A.No.8 of 2013 before the I Additional District and Sessions Judge, Madurai. The appellate Court partly allowed the appeal in the following terms:-

"1. The order of the Judicial Magistrate No.2, Usilampatti, in Cr.M.P.No.3839/2009; dated 31.12.12 is hereby set aside as against the appellants 2 to 6 and the Cr.M.P.No.3839/2009 stands dismissed in respect of appellants 2 to 6/respondents 2 to 6;

2. The order of the Judicial Magistrate No.2,



Usilampatti in Cr.M.P.No.3839/2009; dated 31.12.12 is hereby confirmed as against the 1st appellant with regard to the relief of return of the 23 sovereigns of gold and Rs.65,000/- cash; and

3. The order of the Judicial Magistrate No.2, Usilampatti in Cr.M.P.No.3839/2009; dated 31.12.12 is hereby set aside against the 1st appellant with respect to the relief of residence order and the respondent/petitioner is not entitled to a residence order."

3. The petitioner is primarily aggrieved by the fact that the relief of residence order was set aside. Questioning the same, this criminal revision case has been filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds.

5. It is seen that the marriage between the petitioner and the first respondent has already been dissolved. The petitioner's counsel would contend that even a divorcee would be entitled to an order of residence. He would also rely on the decision of the Hon'ble Apex Court reported in 2014(10)SCC 736(Juveria Abdul Majid Patni Vs. Atif Iqbal Mansoori). Though the petitioner's contentions appear to be quite persuasive, considering the facts and circumstances of this case, I am not inclined to interfere with the order passed by the appellate Court. This revision case was filed in the year 2016. The petitioner was then aged about 43 years. The first respondent was then aged about 46 years. The dissolution of the marriage has taken place subsequently. The petition was filed before the trial Court way back in the year 2009. For the last eleven years, the parties were residing separately. If at this stage, I restore the residence order passed by the trial Court, I am of the view that it may lead to unnecessary confusion. More so, marital tie has already been snapped, I am not inclined to interfere with the order passed by the appellate Court.

6. This criminal revision case stands dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The I Additional District and Sessions Judge,
Madurai.

2. The Judicial Magistrate No.II,
Usilampatti.

Copy To:-The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.R. JEYAPALAM, Advocate (SR-19554[F] dated 09/10/2020
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NA (CO)
AP (15/10/2020) 3P 6C