



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.08.2021

PRONOUNCED ON : 23.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.M.P.NO.7014 OF 2021

IN

CRL.O.P.NO.1009 OF 2020

1.C.Ravi
2.Chinniayan
3.Nagammal
4.Ramadevi
5.Duraisamy
6.D.Subashni

... Petitioners

Versus

Deepika

... Respondent

PRAYER:

Criminal Miscellaneous Petition is filed under Section 482 of the Code of Criminal Procedure, to modify the order to the extent that the petitioners 2 to 6 shall ensure that the petitioner shall deposit a sum of Rs.5,000/- per month to the credit of DVC.No.19 of 2019 on the file of the District Munsif-cum-Judicial Magistrate Court, Mettupalayam, passed in Crl.O.P.No.1009 of 2020 pending on the file of this Court in the interest of justice.

Prayer in Crl.O.P.No.1009 of 2020:-

To call for the records and quash the said proceedings in D.V.C.No.19 of 2019 pending on the file of District Munsif-cum-Judicial Magistrate Court, Mettupalayam.

For Petitioners : Mr.V.K.Sathiamurthy
For Respondent : Mr.K.Selvakumaraswami

ORDER

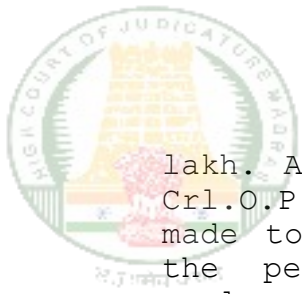
The petitioners have filed this petition seeking modification of the condition imposed by the order dated 22.09.2020 in Crl.O.P.No.1009 of 2020, observing the petitioners



shall ensure that they deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) per month on or before 5th of every English Calendar month to the credit of DVC.No.19 of 2019 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Mettupalayam, as ad-interim maintenance.

2. The contention of the petitioners is that the respondent herein had filed application under Section 12 of the Domestic Violence Act, seeking certain reliefs against her estranged husband one C.Ravi and his family members, the petitioners herein. He further submitted that the respondent already filed H.M.O.P.No.25 of 2019 for the relief of restitution of conjugal rights and also filed petition for interim maintenance in M.C.No.21 of 2019 before the Judicial Magistrate, Mettupalayam under Section 125 of Cr.P.C. Thereafter, the Domestic Violence case in DVA.No.19 of 2019 had been filed. The marriage between the respondent and the said C.Ravi took place on 30.10.2017 at Arulmigu Bannariamman Temple, Erode. Both of them are Engineering Graduates. After the marriage, the respondent was residing along with her husband in Chennai, after some time the said C.Ravi had left to Qatar for employment. Thereafter, the defacto complainant left to her parent's house. From 07.02.2018 onwards she is residing with them. Due to some misunderstanding in the matrimonial life, cases came to be registered between them. As regards the petitioners 2 to 6, they are only in-laws, only to take vengeance they are falsely implicated. Hence, the petitioners 2 to 6 have filed the quash petition in Crl.O.P.No.1009 of 2020 against the DVC.No.19 of 2019.

3. This Court on perusal of materials finding that the petitioners 2 to 6 are in-laws and the relief sought by the respondent in the Domestic Violence case is against her estranged husband C.Ravi seeking residential rights and compensation, maintenance etc. and the petitioners are in-laws, who are living separately and no protection order is sought against the petitioners, this Court quashed the proceedings as against the petitioners 2 to 6. Further to ensure some maintenance to be paid to the respondent, condition ensuring payment of a sum of Rs.5,000/- as interim maintenance was made. The petitioners submit that H.M.O.P.No.25 of 2019 is pending before the Sub-Court, Mettupalayam. Apart from this case, the respondent has filed I.A.No.1 of 2019 under Section 24 of the Hindu Marriage Act and obtained an order to receive Rs.7,500/- per month as interim maintenance. The respondent had also filed M.C.No.21 of 2019 before the Judicial Magistrate, Mettupalayam. The said C.Ravi is making regular payment of Rs.7,500/- towards interim maintenance before the Family Court, so far paid Rs.1



lakh. Added to it, by virtue of order passed by this Court in CrI.O.P.No.1009 of 2020 dated 22.09.2020, the petitioners are made to pay an additional sum of Rs.5,000/- per month. So far the petitioners have paid Rs.55,000/-. The respondent is employed as Hostel Warden having independent earnings. The petitioners never shared common roof.

4. The learned counsel further placed reliance on the judgment of Hon'ble Apex Court in the case of Rajesh Vs. Neha & another, wherein the Hon'ble Apex Court had taken into consideration the various provisions in making payment and maintenance under the Hindu Marriage Act, under Section 125 of Cr.P.C., and the Domestic Violence case, and held that there is no bar in seeking the maintenance under the Domestic Violence Act, under Section 125 of Cr.P.C., or under Hindu Marriage Maintenance Act. Only condition is that it would be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in the previous proceedings.

5. If the maintenance is awarded to the wife in a previously instituted proceeding, she is under legal obligation to disclose the same in a subsequent proceeding for maintenance. While deciding the quantum of maintenance in the subsequent proceedings, the same is to be taken into account. Further he submitted that on the facts of the case, granting conditional order is not required. He further submitted that when the order in CrI.O.P.No.1009 of 2020 was passed by this Court, the petitioner counsel was not informed about the interim maintenance already granted and hence unable to bring to the notice of this Court. That is the reason the conditional order came to be passed in CrI.O.P.No.1009 of 2020. Further in view of the Apex Court guideline, equitable and composite order is desirable.

6. Mr.K.Selvakumaraswami, learned counsel for the respondent submitted that the respondent was employed only as Hostel Warden and she is paid a meagre salary, with that she cannot sustain herself. Further it is the bounden duty of her husband C.Ravi to maintain his wife. The marriage life a short lived one and the respondent is denied the pleasure of matrimonial life, further she is not permitted to stay with her husband and their family. The respondent filed the petition seeking relief of restitution of conjugal rights in HMOP.No.25 of 2019 against her husband C.Ravi, which shows inclination of the respondent to join the 1st petitioner and to lead a matrimonial life. The said Ravi so far failed to give any proper



reason. The desertion has been made by the respondent's husband C.Ravi. The petitioners 2 to 6, who are in-laws of the respondent has not taken any steps for reunion of respondent with her husband C.Ravi. They are more interested to wash away their responsibility forgetting the Hindu family structure and social life, giving reason that it is between the respondent and her husband. After the marriage got uprooted from her paternal family and got implanted into her husband family and she became one of their family member in all aspects, the obligation on the petitioners herein is to see that the respondent and her husband Ravi reunite and lead happy matrimonial life, but on the other hand, they are particular about wriggling out from the case.

7. The petitioners 2 to 6 intention seems only to keep away both respondent and her husband C.Ravi. The respondent counsel fairly submitted that she is receiving a sum of Rs.7,500/- as interim maintenance in I.A.No.1 of 2019 and Rs.5,000/- paid after the order of this Court in CrI.O.P.No.1009 of 2020. He also admits that as per the Hon'ble Apex Court judgment in SLP.(CrI.)No.9503 of 2018 above mentioned, the respondent is agreeable to receive a sum of Rs.10,000/- as monthly maintenance consolidating both the petitioners maintenance ordered by the Family Court in I.A.No.1 of 2019 and maintenance amount received as per orders of this Court in CrI.O.P.No.1009 of 2020 and further submitted to have a holistic approach in all the three cases H.M.O.P.No.25 of 2015 pending before Sub Court, Mettupalayam, M.C.No.21 of 2010 pending before the Judicial Magistrate, Mettupalayam and D.V.A.C.No.19 of 2019 pending before Judicial Magistrate, Mettupalayam to be tried together by the Family Court / Sub-Court, Mettupalayam, to avoid conflicting views or orders.

8. This Court considered the rival submissions and perused the materials available on record. Both the petitioners and the respondent now agreed for combined hearing of H.M.O.P.No.25 of 2019 pending before the Sub-Court and D.V.C.No.19 of 2019 pending before the District Munsif-cum-Judicial Magistrate Court, Mettupalayam and M.C.No.21 of 2019 pending before the Judicial Magistrate, Mettupalayam and all three cases to be tried before the Sub-Court, Mettupalayam. Further the respondent agreed to receive a sum of Rs.10,000/- as maintenance. The respondent is receiving Rs.7,500/- in I.A.No.1 of 2019 in HMOP.No.25 of 2019, the respondent agrees to receive Rs.2,500/- instead of Rs.5,000/- as ordered by this Court in CrI.O.P.No.1009 of 2020. Hence, the modified amount of Rs.2,500/- to be paid to the respondent per month. Accordingly, a consolidated sum of Rs.10,000/- shall be paid by C.T.Ravi per



month to his wife, the respondent. This modification is made taking into consideration the interim maintenance being paid in I.A.No.1 of 2019. The petitioners and the respondent have no objection for all the three cases to be tried by the Sub Court/Family Court, Mettupalayam together.

9. In view of the above, all three cases shall be tried together and monthly maintenance of Rs.10,000/- to be paid. This maintenance amount is to be paid by the respondent's estranged husband C.Ravi. In view of the same, the observation that default in making payment of maintenance by C.Ravi would automatically cancel the quash order is clarified and quashing the proceedings as regards the petitioners 2 to 6 is reiterated and confirmed without any precondition. The petitioners are morally bound to ensure the said C.Ravi abides by the condition of this Court and pays Rs.10,000/- from September 2021 towards monthly interim maintenance till such time the Competent Court renders final order in all the three proceedings.

10. The Sub-Court, Mettupalayam is directed to give top priority and complete all three cases within a period of six months from the date of receipt of a copy of this order and to pass orders simultaneously. The Judicial Magistrate, Mettupalayam and District Munsif-cum-Judicial Magistrate, Mettupalayam are hereby directed to transfer M.C.No.21 of 2019 and D.V.C.No.19 of 2019 to the Sub Court, Mettupalayam, forthwith, who in turn shall try both cases along with H.M.O.P.No.25 of 2019 and dispose all the cases simultaneously.

11. With the above directions, this Criminal Miscellaneous Petition is allowed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dna



To

1. The District Munsif-cum-Judicial Magistrate Court,
Mettupalayam
2. The Judicial Magistrate, Mettupalayam
3. -Do- Thro The Chief Judicial Magistrate,
Coimbatore.
4. The Subordinate Judge,
Mettupalayam

+2ccs to Mr.V.K.Sathiamurthy, Advocate, S.R.No.48839
+1cc to Mr.S.B.Viswanathan, Advocate, S.R.No.48960

Crl.M.P.No.7014 of 2021
in
Crl.O.P.No.1009 of 2020

AJS (CO)
PM/11/10/2021