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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

Crl.R.C.No.1471 of 2018

G.Sudhakar

Represented by his Power of Attorney Agent

K.Gopal,

...Petitioner/1st Respondent

Vs

S.Lakshmi Priya

...Respondent/Petitioner

PRAYER: This Criminal Revision Case is filed under Sections 397 read with 401 Cr.P.C., against the judgment passed by the 1st Additional District and Sessions Judge, Coimbatore in Crl.A.No.185 of 2017 dated 14.09.2018 by modifying the order passed by the Judicial Magistrate No.3, Coimbatore in D.V.A.No.8 of 2013 dated 19.05.2017 and to set aside the same.

For Petitioner : Mr.E.K.Kumaresan

For Respondent : Mr.R.N.Chandra Sekaran

O R D E R

This Criminal Revision Case has been preferred challenging the Judgment of the 1st Additional District and Sessions Judge, Coimbatore, dated 14.09.2018, in C.A.No.185 of 2017 modifying the order passed by the Judicial Magistrate No.3, Coimbatore, dated 19.05.2017 in D.V.A.No.8 of 2013.

2. The revision petitioner is the husband and the respondent is the wife and petitioner before the trial Court (DVC Court). The respondent/wife filed a petition against the petitioner/husband by seeking certain reliefs by invoking Section 19(8) of Protection of Women from Domestic Violence Act. The learned Judicial Magistrate, No.III, Coimbatore, after hearing both sides, has passed the order on 19.05.2017 and granted the following reliefs to the respondent:



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(i) Preferring the order restraining the petitioner and his family members from in any way disturb the peaceful lief of the respondent and not to cause any violence on the respondent.

(ii) The revision petitioner/husband is directed to hand over the Birth Certificate and the Passport of the respondent and her children to her. The revision petitioner is also directed to return 100 Sovereigns of Gold jewels given to the revision petitioner as dowry and not to deal with the same until it is returned to the respondent.

(iii) The revision Petitioner is directed to pay a compensation of Rs.50,00,000/- for the mental agony caused to them.

3. The above order was challenged by the revision petitioner/husband and his parents by way of preferring a criminal appeal before the 1st Additional District and Sessions Judge, Coimbatore in Crl.A.No.185 of 2017. The said criminal appeal was disposed by the 1st Additional District and Sessions Judge, and the order of the learned Magistrate has been modified as under:

''(i) preferring an order against the revision petitioner that they should not disturb the peaceful life of the respondent and her children.

(ii) The revision petitioner is directed to hand over the Birth Certificate and Passport to the respondent.

(iii) The order passed as to the return of 100 Sovereigns of jewels is set aside.

(iv) The order to pay compensation of Rs.50,00,000/- has been modified and reduced to Rs.25,0,0000/-.''

4. Aggrieved by that, the revision petitioner/husband has filed this Criminal Revision Case before this Court.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. The learned counsel for the petitioner / husband submitted that the marriage between the revision petitioner and the respondent had already been dissolved and in the judgment itself, it has been observed that the petitioner/husband has not caused any cruelty to the respondent/wife. It is further submitted that the Courts below have not taken into consideration of the real income of the petitioner/husband while awarding compensation; the compensation is not based on any proof of domestic violence and hence, the revision petitioner



should not be directed to pay any huge amount by way of compensation. He further submitted that the Passport is not under the custody of the petitioner and that part of the order with regard to return of Passport, is impractical for execution.

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7. The learned counsel for the respondent/wife submitted that the Courts below have appreciated the life conditions of both the petitioner and the respondent, in a fair manner; and the award of compensation is not very huge and it is very reasonable and hence, the judgment of the appellate Court does not warrant any interference by this Court.

8. The main thrust of the argument of the learned counsel for the petitioner/husband is that by an order of the Family Court the marriage between the revision petitioner/husband and the respondent/wife got dissolved and there is no finding recorded by the Family Court in the said order that this revision petitioner/husband had caused any torture or cruelty to the respondent/wife. It has been rightly observed by the First Appellate Court that, the maintenance should be based upon the income of the revision petitioner/husband and the compensation has to be fixed by taking into consideration the mental agony undergone by the respondent/wife.

9. The learned counsel for the petitioner/husband claimed that the respondent/wife had never been subjected to any kind of ill treatment and hence, she is not eligible to get any compensation from the petitioner. But the standard of proof which requires to prove the allegations before the Family Court is something different from that of the proof that should be proved in a case for maintenance or in any other complaint made under Protection of Women from Domestic Violence Act. Since the petition filed before the Domestic violence Court has been dealt summarily, the fundamental facts and evidence that should convince the Court to fix the amount of compensation alone has been considered. It is submitted by the learned counsel for the revision petitioner/husband that the revision petitioner had got married immediately after the order of divorce and he had lost his job at United States and he is now working for a meagre salary and hence, it is not possible for him to pay the compensation of Rs.25,00,000/- to the respondent/wife.

10. The appellate Court has reviewed the trial Court's order in a careful manner, and reduced the amount of compensation from Rs.50,000,000/- to Rs.25,00,000/-. The learned counsel for the petitioner/husband submitted that due to the continuation of the case proceedings, he could not peacefully attend his job at United States of America and he came back to Coimbatore and now he is jobless. On seeing the cause title of this revision case itself, it is seen that the revision



petitioner has been represented by his Power of Attorney agent, K.Gopal. It is because he was working in United States. Hence, it is not fair on the part of the revision petitioner/husband to allege that he had lost his job because of the case proceedings. Whatever may be the problem between the petitioner and the respondent, they have a bounden duty to maintain their children. The compensation awarded in these kinds of matters, is nothing but to compensate the monetary loss, physical and mental agony undergone.

11. The events alleged to have been taken place were all the events pertaining to the period during which time, the order under D.V.Act, has been passed. So, at the time of filing the petition for dissolution of marriage, the revision petitioner and the respondent may not be living together in cordial terms. Hence, the learned Family Judge may be right in making the observation that the revision petitioner/husband has not caused any harassment and cruelty to the respondent/wife at some relevant point of time. The award of compensation need not strictly be viewed as the maintenance amount given to the wife. It is awarded to compensate the sufferings undergone by her while she was living with her husband. Further, the huge responsibility of maintaining the children fell on the shoulder of the respondent and no doubt it involves lot of monetary element. The said petition should also be taken into consideration for fixing the compensation or maintenance.

12. The learned 1st Additional District and Sessions Judge, Coimbatore has rightly appreciated the circumstances of the case and modified the compensation and fixed it at a very reasonable level. Since the judgment of the lower appellate Court is fair and proper, it does not require any interference by this Court.

13. In the result, this Criminal Revision Case is dismissed and the judgment of the learned 1st Additional District and Sessions Judge, Coimbatore in CrI.A.No.185 of 2017 dated 14.09.2018 is confirmed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ssn



To

1. The 1st Additional District and Sessions Judge,
Coimbatore.

2. -do- through The Principle District Sessions Judge,
Coimbatore.

3. The Judicial Magistrate No.3,
Coimbatore.

4. The Chief Judicial Magistrate,
Coimbatore.

5. The Public Prosecutor,
High Court of Madras,
Chennai.

+lcc to Mr.R.N.Chandra Sekaran, Advocate SR. No.64597

Cr1.R.C.No.1471 of 2018

MT (CO)

PR (15/02/2022)