



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.02.2021

Pronounced on : 22.03.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD).No. 514 of 2017

Pandiyan @ Kulandaivelu : Revision Petitioner/Appellant/
Respondent

Vs.

Indirani : Respondent/Respondent/Complainant

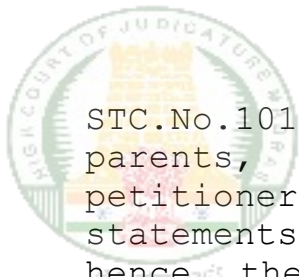
PRAYER:- Criminal Revision Case filed under Section 397 r/w.. 401 Cr.P.C., to call for the records relating to the order passed by the learned Additional District and Sessions Judge, Pudukkottai made in C.A.No.39 of 2014 dated 18.11.2016 confirming the order in S.T.C.No.1010 of 2010 on the file of the Judicial Magistrate, Pudukkottai, dated 24.05.2013 and set aside the same and allow the revision.

For petitioner : Mr. P. Ganapathi Subramaniyan
For respondents : Mr. S. Poornachandran

ORDER

This Criminal Revision is directed against the Judgment passed in C.A.No.39 of 2014, dated 18.11.2016 on the file of the Additional District Court, Pudukkottai, confirming the order passed in STC.No.1010 of 2010, dated 24.05.2013 on the file of the Court of Judicial Magistrate, Pudukkottai.

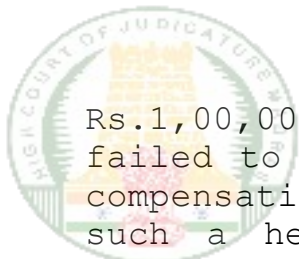
2. It is not in dispute that the marriage between the revision petitioner and the respondent was solemnized on 23.06.1999 and that due to the wedlock two children viz., Kalidas and Arunthathi were born to them and that subsequently, there arose disputes and misunderstanding between the parties. The Protection Officer (PWDVA) of District Social Welfare Office, Pudukkottai has filed the domestic incident report for the respondent claiming the reliefs under Sections 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 and the learned Magistrate has taken the complaint on file in



STC.No.1010 of 2010 against the revision petitioner and his parents, sister and brother in law. Though the revision petitioner and his family members have filed their counter statements, they have not chosen to participate in the trial and hence, they were set ex parte. The learned Judicial Magistrate, upon considering the evidence adduced by the respondent side and on hearing the respondent side, passed an order dated 25.04.2013 granting the protection order, residence order and further directed the revision petitioner to return the Sreethana articles within a month and to pay monthly maintenance at Rs.3,000/- and also Rs.1,00,000/- as damages. Aggrieved by the said order, the husband has filed an appeal in C.A.No.39 of 2014 on the file of the Additional District Court, Pudukkottai and the learned Additional Judge, on perusing the records and on hearing the arguments of both sides, has passed the impugned Judgment on 18.11.2016 dismissing the appeal and thereby, confirmed the order of the learned Judicial Magistrate passed in STC.No.1010 of 2010. Not satisfied with the Judgment of the Additional District Court, Pudukkottai, the husband has come forward with the present revision.

3. Whether the impugned order passed in CA.No.13 of 2014, dated 18.11.2016 by the learned Additional District Judge, Pudukkottai in confirming the order passed in STC.No.1010 of 2010, dated, 24.05.2013 by the learned Judicial Magistrate, Pudukkottai is liable to be set aside? is the point for consideration.

4. The learned counsel appearing for the revision petitioner would contend that the trial Court as well as the appellate Court failed to appreciate the fact that opportunity was not given to the revision petitioner to put forth his case, that both the Courts have failed to consider that the revision petitioner was not able to appear before the trial Court due to bonafide reason and that both the Courts below have also failed to appreciate the fact that the revision petitioner is having very good grounds to agitate the matter. He would further contend that the trial Court as well as the appellate Court failed to consider that the respondent got the sale deed from the father of the revision petitioner by playing fraud and the same is under challenge before the competent civil Court and that opportunity should be given to the revision petitioner to establish the same. He would further submit that both the Courts below have failed to consider that the respondent had misappropriated the money sent by the revision petitioner from abroad, that since the respondent has already received a sum of Rs.4,00,000/- from the revision petitioner, she is not entitled to get any amount, that since the respondent has been residing in the house of the revision petitioner, she is not entitled to get compensation of



Rs.1,00,000/-, that the trial Court as well as the appellate Court failed to give any reason for awarding a sum of Rs.1,00,000/- as compensation and that absolutely there was no basis for awarding such a hectic sum. He would further contend that since the appropriate matrimonial proceedings are pending, the respondent is not entitled to get any of the reliefs claimed, that both the Courts below have failed to consider that the respondent is employed as a noon meal organizer and is earning decent monthly income and that therefore, she is not entitled to claim maintenance.

5. No doubt, the revision petitioner, in STC.No.1010 of 2010, has filed a separate counter statement and his family members have filed two more counter statements, but, when the case was posted for trial, the revision petitioner and his family members have not turned up and that therefore, they were called absent and set ex parte.

6. The main contention of the revision petitioner is that he was not given sufficient opportunity to put forth his defence in the trial Court. The learned Appellate Judge has dealt with that aspect elaborately. As rightly observed by the learned Appellate Judge, the complaint was filed on 27.09.2010 and the same was taken on file on 28.09.2010, that interim order was passed on 29.09.2010 and that the final order was passed on 24.05.2013 after a lapse of nearly two years and eight months since the date of filing of the complaint. Hence, the contention of the revision petitioner that the trial Court, by not affording reasonable opportunity, has acted in a mechanical way and that the ex parte order passed is legally unsustainable is devoid of substance and the same is liable for rejection.

7. It is pertinent to mention that the revision petitioner and his family members were set ex parte on 01.06.2012 and the learned Magistrate has passed the final orders on 24.05.2013. It is not known as to whether the revision petitioner has filed any application for setting aside the ex parte order. Even according to the revision petitioner, civil case is pending before the competent civil Court and in that situation the revision petitioner is not entitled to canvass his arguments that the respondent had managed to get the sale deed from the father of the revision petitioner by plying fraud. The next contention of the revision petitioner is that the respondent had misappropriated the entire amount of Rs.4,00,000/- sent by him while he was in abroad and as such, the respondent is not entitled to get any amount. The revision petitioner has not produced any *iota* of evidence to substantiate the said charge. Considering the facts and circumstances of the case and also status of the parties and the current economic situation, the fixation of the monthly



maintenance for the respondent and her two children at Rs. 3,000/- cannot be found fault with and the amount awarded is very much reasonable.

8. The revision petitioner has seriously challenged the decision of the trial Court as well as the Appellate Court granting damages at Rs.1,00,000/- to the respondent. The learned Magistrate, considering the fact that the revision petitioner had married another women and is residing with that women and as there was no chance for the respondent to live with the revision petitioner any more, decided to award damages at Rs.1,00,000/-. As per Section 22 of the Protection of Women from Domestic Violence Act, 2005, the Court can pass an order directing the husband to pay compensation and damages for the injuries including mental torture and emotional distress, caused by the acts of the domestic violence committed by the respondents therein. In the case on hand, the trial Court as well as the appellate Court have given specific finding that the revision petitioner had committed acts of domestic violence and granted the protection order. Considering the above, the granting of Rs.1,00,000/- to the respondents towards damages cannot be found fault with.

9. The revision petitioner has not canvassed any other reason or ground to impugn the Judgment of the Appellate Court. Hence, this Court decides that there is no infirmity in the Judgment of the Appellate Court in confirming the order of the trial Court and consequently, the revision is devoid of merits and the same is liable to be dismissed and the above point is answered accordingly.

10. In the result, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)



To

1.The Additional District and Session Court, Pudukkottai.

2.The Judicial Magistrate, Pudukkottai.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-13156[F] dated 23/03/2021)

+1 CC to M/s.S.POORNA CHANDRAN, Advocate (SR-13182[F] dated 24/03/2021)

Pre-delivery order made in
CRL.RC(MD).No. 514 of 2017
22.03.2021

nsv (24.04.2021) 5P 5C