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Crl.RC.Nos.263, 291 and 1126 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case Nos.263, 291 and 1126 of 2020

and

Crl.M.P.Nos.1933 and 2320 of 2020

Crl.R.C.No.263 of 2020:

1.Thangarathinam

2.Elangovan

3.Shanthi

4.Vel Vignesh

... Petitioners

Vs.

K.Nandhini

... Respondent

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside the Judgment dated 09.12.2019 passed in Crl.Appeal No.33 of 2018 on the file of the Principal Sessions Judge, Krishnagiri, modifying the order dated 17.01.2018 passed in M.C.No.10 of 2015 on the file of the Judicial Magistrate No.1, Krishnagiri and allow this revision with costs.

For Petitioners : Mr.T.Panchatsaram

For Respondent : Mr.C.Samivel

Crl.R.C.No.291 of 2020:

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1.Thangarathinam
2.Elangovan
3.Shanthi
4.Vel Vignesh

... Petitioners

Vs.

K.Nandhini

... Respondent

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside the Judgment dated 09.12.2019 passed in Crl.Appeal No.8 of 2018 on the file of the Principal Sessions Judge, Krishnagiri, modifying the order dated 17.01.2018 passed in M.C.No.10 of 2015 on the file of the Judicial Magistrate No.1, Krishnagiri and allow this revision with costs.

For Petitioners : Mr.T.Panchatsaram

For Respondent : Mr.C.Samivel

Crl.R.C.No.1126 of 2020:

K.Nandhini

... Petitioner

Vs.

1.Thangarathinam
2.Elangovan
3.Shanthi
4.Vel Vignesh

... Respondents

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside the Judgment in Criminal Appeal No.8 of 2018 dated 09.12.2019 passed by the learned Principal Sessions Judge,



Krishnagiri modifying the order in M.C.No.10 of 2015 dated 17.10.2018 passed by the learned Judicial Magistrate No.I, Krishnagiri and further enhance the compensation and allow this revision petition.

For Petitioner : Mr.C.Samivel

For Respondents : Mr.T.Panchatsaram

COMMON ORDER

These Revisions are filed challenging the same Judgment, therefore a common order is passed herein. The ranking of the parties mentioned here is, as per the ranking in Criminal Revision No.1126 of 2020.

2. The Criminal Revision Nos.263 and 291 of 2020 are filed seeking to set aside the Judgment dated 09.12.2019 passed in Criminal Appeal No.33 of 2018 and Criminal Appeal No.8 of 2018 on the file of the Principal Sessions Judge, Krishnagiri, modifying the order dated 17.01.2018 passed in M.C.No.10 of 2015 on the file of the Judicial Magistrate No.1, Krishnagiri and allow this revision with costs.

3. The Criminal Revision No.1126 of 2020 is filed to set aside the Judgment in Criminal Appeal No.8 of 2018 dated 09.12.2019 passed by the



learned Principal Sessions Judge, Krishnagiri modifying the order in M.C.No.10 of 2015 dated 17.01.2018 passed by the learned Judicial Magistrate No.I, Krishnagiri and further enhance the compensation.

4. The petitioner is the wife and 1st respondent is the husband. The 2nd respondent is the father of the 1st respondent, the 3rd respondent is the mother of the 1st respondent, the 4th respondent is the brother of the 1st respondent.

5. The petitioner in Criminal Revision No.1126 of 2020 has filed a case in M.C.No.10 of 2015 against the respondents under Domestic Violence Act. Though she sought several reliefs, the learned Magistrate ordered the 1st respondent to pay maintenance of Rs.10,000/- per month and further directed to pay a sum of Rs.3,00,000/- as compensation to the petitioner.

6. Aggrieved over the said order, the respondents filed appeals before the learned Principal Sessions Judge, Krishnagiri in Criminal Appeal Nos.33 and 8 of 2018. Since both the appeals arise out of the same Judgment, the



learned Principal Sessions Judge took cognizance of both appeals and passed a common Judgment. The appeal filed by the respondents in Criminal Appeal No.33 of 2018 was dismissed and Criminal Appeal No.8 of 2018 was partly allowed and a sum of Rs.3,00,000/- was enhanced to Rs.20,00,000/- and all the respondents were directed to jointly pay the compensation and 1st respondent was directed to pay maintenance Rs.20,000/- per month to the petitioner herein.

7. Aggrieved by the Judgment, the petitioner in Criminal Revision No.1126 of 2020 filed this application for further enhancement of compensation and also monthly maintenance and the respondents have filed Criminal Revision Nos.263 and 291 of 2020 and now all the Revisions have been heard together and a common order is passed.

8. The learned counsel for the petitioner in Criminal Revision No.1126 of 2020 would submit that the order of maintenance of Rs.20,000/- and sum of Rs.20,00,000/- as compensation are not sufficient and sought for further enhancement. The petitioner lost her life and she is driven to the street. Therefore, the compensation of Rs.20,00,000/- is not sufficient and the same



has to be increased. She would further submit that the trial Court and the appellate Court failed to consider the pathetic situation of the petitioner and economic status of the respondents. Therefore, the order passed by the learned Magistrate and learned Principal Sessions Judge have to be modified and this Revision is liable to be allowed.

9. The learned counsel for the respondents would submit that the petitioner and the 1st respondent got divorce and both were married separately with other persons. They have now set up families on their own and living a peaceful life. Therefore, a divorced women who got remarried is not entitled to get maintenance from her husband. Since the petitioner is remarried and living a peaceful life with her new husband, she is not entitled to get any compensation also. Therefore, the Revision filed by the respondents have to be allowed and the order of both the learned Magistrate and learned Principal Sessions Judge are liable to be set aside.

10. Heard the learned counsel for both sides and perused the materials placed on record in support of these Revisions.



11. Admittedly, the petitioner in Criminal Revision No.1126 of 2020 is the wife and 1st respondent is the husband. The 2nd and 3rd respondents are the father in law and mother in law of the petitioner and 4th respondent is the brother in law of the petitioner. The marriage between the petitioner and the 1st respondent was not in dispute. Even according to the petitioner, she was driven out of the matrimonial home due to domestic violence and therefore, she is entitled to get compensation as well as monthly maintenance from the respondents. Both the Court below found that there was a domestic violence caused by the respondents on the petitioner and she prays for maintenance and compensation.

12. The scope of the revision is very limited. The revision Court cannot sit in the Arm chair of the appellate Court and cannot re-appreciate or re-assess the evidence as trial Court and appellate Court. As a revision Court, this Court while exercising its power, has to find out is there any perversity in the appreciation of evidence in the Judgments passed by the Courts below. Unless there is a perversity, the revision Court cannot interfere with the Judgments of the Courts below.



13. Since the relationship between the parties are not in dispute and now the petitioner and 1st respondent are living separately and both Courts found that there was domestic violence caused by the respondents to the petitioner, she is entitled to get compensation and maintenance.

14. Therefore, this Court do not find any perversity in appreciation of evidence by the trial Court and re-appreciation of evidence by the appellate Court. There is no merit in the Revisions and all the Revisions are liable to be dismissed.

15. Though the petitioner filed the Revision for further enhancement, the appellate Court had already increased the maintenance from Rs.10,000/- per month to Rs.20,000/- per month and compensation from Rs.3,00,000/- to Rs.20,00,000/-, and on considering the cost of living of the petitioner and economic status of the respondents, this Court do not find any perversity in the order passed by the appellate Court. However, as far as the maintenance is considered, it is always left open to the wife as and when depending upon the change of circumstances, she can file a petition for enhancement.



16. Though, the learned counsel for the respondents submitted that both the petitioner and 1st respondent got re-married separately with other person, no ground has been taken in either of the revisions and no material is produced as additional evidence to prove the same.

17. Under these circumstances, this Court cannot travel beyond the materials which are not available. However, in case, the submission of the learned counsel for the respondents is true, it is left open to the parties to workout their remedy in the manner known to law.

18. Accordingly, all these Criminal Revision cases are dismissed and the Judgment passed by the learned Principal Sessions Judge, Krishnagiri is hereby confirmed. Consequently, the connected Miscellaneous Petitions are closed.

16.12.2022

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Crl.RC.Nos.263, 291 and 1126 of 2020



P.VELMURUGAN,J.

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To

1.The Principal Sessions Judge,
Krishnagiri.

2.The Judicial Magistrate No.I,
Krishnagiri.

Criminal Revision Case Nos.263, 291 and 1126 of 2020
and
Crl.M.P.Nos.1933 and 2320 of 2020

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