



Crl.R.C.Nos.36 and 37 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.06.2022

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.R.C.Nos.36 and 37 of 2015

Sofia Rani

.. Petitioner in
Crl.R.C.Nos.36 & 37 of 2015

/versus/

Saranya

.. Respondent in
Crl.R.C.No.36 of 2015

1.Lawrance

2.Henry

.. Respondents in
Crl.R.C.No.37 of 2015

Prayer in Crl.R.C.No.36 of 2015: This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order passed by the 2nd Additional Sessions Court, Salem in C.A.No.60 of 2014 dated 27.08.2014 reversing Judicial Magistrate No.1 of Mettur in C.M.P.No.1360 of 2010 dated 08.04.2014.

Prayer in Crl.R.C.No.37 of 2015: This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order passed by the 2nd Additional Sessions Court, Salem in C.A.No.59 of



Crl.R.C.Nos.36 and 37 of 2015

2014 dated 27.08.2014 partly reversing Judicial Magistrate No.1 of Mettur
in C.M.P.No.1360 of 2010 dated 08.04.2014.

For Petitioner :Mr. A.Sundaravadhanan
in both cases

For Respondents :Mr.S.Doraisamy for
Mr.V.Elangovan in
Crl.R.C.No.36 of 2015

Mr.T.Jayaramaraj
for respondent in
Crl.R.C.No.37 of 2015

COMMON ORDER

These revision petitions are arising out of the common order passed
by the appellate Court partly allowing the appeals in Crl.A.Nos.59 & 60 of
2014, dated 27/08/2014.

2. The facts involved in this case is that one Sofia Rani/revision
petitioner married Lawrance, the first respondent in Crl.R.C.No.37 of 2015
on 19.08.1998. Two female children were born out of wedlock. Since the
revision petitioner has begotten only female children, her husband
(Lawrance) started harassing her and also developed intimacy with one



Saranya/4th accused in her complaint. Thereafter, on the instigation of said

Saranya, the petitioner herein was driven out of the matrimonial house. The first respondent (Lawrance) is living with the fourth respondent and also she begotten a female child to her. In the said circumstances, the petition under Sections 18, 19, 20, 21 and 22 of the Domestic Violence Act filed for praying an order of maintenance and protection.

3. The trial Court, after considering the merits of the case, awarded Rs.5,000/- monthly maintenance for the petitioner/Sofia Rani and Rs.2,500/- each for the two daughters, besides awarded compensation of Rs.1,00,000/- payable by the first respondent (Lawrance) and Rs.50,000/- payable by the fourth respondent (Saranya) and also Rs.50,000/- payable by the second respondent (Henry), who is the father-in-law of the petitioner. This order of Judicial Magistrate No.1, Mettur was challenged by the first respondent and the second respondent before II Additional Sessions Court, Salem in Crl.A.No.59 of 2014. The fourth respondent/Saranya also filed a separate appeal in Crl.A.No.60 of 2014 challenging the same.



4. The appellate Court considering the evidence and documents set aside the order of the trial Court in respect of the compensation awarded.

However, the appellate Court confirmed the trial Court order of payment of monthly maintenance to the tune of Rs.5,000/- for the petitioner and Rs.2,500/- each to two daughters and other protection sought by the petitioner. Aggrieved by the disallowed portion of the compensation, the present Criminal Revision Cases are filed in Crl.R.C.No.36 and 37 of 2015.

5. The learned counsel appearing for the revision petitioner submitted that when the trial Court after considering the fact and holding that the petitioner was subjected to cruelty and harassment by her husband and family members including her paramour/fourth respondent likely awarded maintenance and compensation. However, the appellate Court, without assigning any reason has set aside the order of compensation in entirety without proper application of mind. Particularly, the learned counsel appearing for the petitioner submitted that, relying upon the Clause VI in Form 2, Rule 6(1) submitted by the petitioner herein seeking Rs.20,000/- as compensation, the appellate Court has found, the trial Court order of



awarding compensation of Rs.1,50,000/- and Rs.50,000/- and Rs.50,000/- payable by the first respondent, second respondent and the fourth respondent respectively and set aside the entire component of compensation which is against the principle of compensation for the damages cost.

6. While the appellate Court has confirmed that the fact the fourth respondent/ Saranya has enticed Lawrance (first respondent) and she is living with him has been proved, the mental cruelty caused thereby she need to be adequately compensated. While the trial Court has rightly compensated, the appellate Court has set aside the award of compensation entirety quoting that the petitioner has sought only Rs.20,000/- as compensation. Even if the claim is Rs.20,000/-, when there is justifiable reason to award more, higher compensation can be awarded. But the trial Court has rightly on appreciation of evidence has awarded higher compensation but without assigning any reason, the appellate Court has totally set aside the award of compensation on the ground that the petitioner has sought only Rs.20,000/- as compensation. Even if it is so, the appellate Court ought to have at least awarded Rs.20,000/- as compensation.



WEB COPY

7. The learned counsel appearing for the respondent in Crl.R.C.No.36 of 2015 submitted that the respondent/Saranya is not a member of the family and there is no evidence to show that she is form part of the family and therefore, she will not fall within the definition of member of the family and scope and ambit of Domestic Violence Act. Further more, it is also contended that if at all the petitioner is entitled for any compensation or maintenance, she can seek remedy only against her husband and his family members and not against the fourth respondent.

8. The learned counsel appearing for the respondents, who are the husband and father-in-law of the defacto complainant in Crl.R.C.No.37 of 2015 submitted that, the first respondent/Lawrence is paying the maintenance regularly. Based on the complaint given by the petitioner herein, the Mettur Police has registered a criminal complaint for the offence under Section 497 of IPC etc. and after the investigation, final report was filed and the same is pending before the Judicial Magistrate No.1, Mettur. Therefore, he submitted that there cannot be a parallel prosecution under



the Domestic Violence Act. Further more, there is no need to pay compensation. Hence, the order of the appellate Court has to be confirmed.

9. On considering the rival submissions, this Court finds that both the trial Court as well as the appellate Court had not assigned any reason for awarding the compensation or disallowing the compensation part. Atleast the trial Court had discussed that the petitioner herein is entitled for compensation but even then no reason assigned for awarding a sum of Rs.1,50,000/-; Rs.50,000/- and Rs.50,000/- respectively. The appellate Court while pointing out that the award is more and above the claim, had not assigned any reason to set aside the award in toto.

10. In the said circumstances, though the matter has already been pending before this Court for the past 7 years, in the light of the fact that the Court, which awarded compensation for damages, had failed to assign reason, these Criminal Revision Cases are allowed. The common judgment of the Appellate Court viz., II Additional Sessions Court, Salem in Crl.A.Nos.59 and 60 of 2014 dated 27.08.2014 is set aside. Further, these



Crl.R.C.Nos.36 and 37 of 2015

cases are remanded back to the appellate Court for fresh consideration to decide the compensation component alone. The appellate Court shall dispose of the appeals in Crl.A.Nos.59 and 60 of 2014 preferably within a period of 3 months, from the date of receipt of a copy of the records.

27.06.2022

Index:yes/no

ari

To:

- 1.The 2nd Additional Sessions Court, Salem.
- 2.The Judicial Magistrate No.1 of Mettur.



WEB COPY



Crl.R.C.Nos.36 and 37 of 2015

DR.G.JAYACHANDRAN,J.

ari

Crl.R.C.Nos.36 and 37 of 2015

27.06.2022