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Crl.R.C.No.425 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.425 of 2018
and Crl.M.P.No.5247 of 2018

M.N.Rohit

... Petitioner

Vs.

N.Muthulakshmi

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the order dated 12.12.2017 made in Crl.A.141 of 2017 on the file of the III Additional District and Sessions Judge, Coimbatore, in modifying the order dated 13.06.2017 made in CMP.No.1777 of 2017 in DVA No.6 of 2017 on the file of the Judicial Magistrate No.VI, Coimbatore.

For Petitioner : Mr.A.E.Ravi Chandran

For Respondent : M/s.I.Bobby Portia

for Mr.K.P.Sathish Kumar

ORDER

This Criminal Revision Case has been filed to set-aside the order dated 12.12.2017 made in Crl.A.No.141 of 2017 on the file of the III Additional District and Sessions Judge, Coimbatore, in modifying the order dated 13.06.2017 made in CMP.No.1777 of 2017 in DVA No.6 of 2017 on the file of



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the Judicial Magistrate No.VI, Coimbatore, thereby ordered right of residence in favour of the respondent herein.

2. Heard both sides.

3. The petitioner is the husband of the respondent herein. They got married in the year 2012. However, there was a strained relationship between them and as such they got separated and the respondent was driven out from the matrimonial home. Therefore, the respondent filed a complaint under the Domestic Violence Act in DVA No.6 of 2017. Pending complaint, the respondent filed a petition in CMP.No.1777 of 2017 seeking right of residence. The Trial Court, after considering the facts and circumstances, granted right of residence to the respondent at No.27, Nehru Nagar East, 5th street, 4th cross street, Civil Aerodrome Post, Kalapatti Main Road, Coimbatore-14. Further, the petitioner and his family members restrained her and interfered with the peaceful living in the said house. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.141 of 2017.

4. The Appellate Court modified the order passed by the Trial Court, as



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follows,

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“ i. Rs.25,000/- shall be paid by the first appellant to the respondents within 30 days from this date, to meet out the rental advance.

ii. A sum of Rs.6,000/- shall be paid by the first appellant to the respondents on or before the 5th of every English calender month, to meet out the monthly rents. This payment shall commence from January 2018.”

However, the petitioner herein did not satisfy the said order and filed this revision on the ground that the Trial Court, without giving opportunity of filing counter, ordered for right for residence in favour of the respondent herein. The petitioner was directed to pay a sum of Rs.25,000/- to meet out the rental advance and ordered for a sum of Rs.6,000/- towards the monthly rent in favour of the respondent herein, without even analyzing the capacity of the petitioner herein. He is unable to pay the said amount, since he has no job and he has no source of income to meet the expenses as ordered by the first Appellate Court.

5. It is seen that the Trial Court ordered for right of residence in the house of the petitioner. However, it cannot be possible since there are other family members and the petitioner used to harass the respondent a all times and as such the first Appellate Court rightly modified the right of residence by directing the petitioner to pay a sum of Rs.25,000/- to meet out the rental advance and also directed to pay a sum of Rs.6,000/- towards the monthly rent



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in favour of the respondent herein.

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6. Hence, this Court finds no infirmity or illegality in the order passed by the Court below. That apart, it is only an interim order and the main complaint filed under Domestic Violence Act is pending in DVA No.6 of 2017 on the file of the Judicial Magistrate No.VI, Coimbatore. Therefore, this Court finds no merit in this petition and this petition is liable to be dismissed. However, the Trial Court is directed to dispose of the complaint in DVA No.6 of 2017 on the file of the Judicial Magistrate No.VI, Coimbatore, within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, this Criminal Revision case is dismissed. Consequently, connected Miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The III Additional District and Sessions Judge, Coimbatore.
2. The Judicial Magistrate No.VI, Coimbatore.



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G.K.ILANTHIRAIYAN, J

mn

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