



CrI.R.C.No.507 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM:

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

CRL.R.C.No.507 of 2018
and CrI.M.P.No.6117 of 2018

1.A.Prakash
2.Arumugam
3.Mani

... Petitioners

Vs.

V.Mallieswari @ Magudeswari

... Respondent

Prayer: The Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the judgment passed the III Additional District and Sessions Judge, Coimbatore, in C.A.No.41 of 2015 dated 24.10.2017 by confirming the order passed by the Judicial Magistrate No.6, Coimbatore, in D.V.A.C.No.43 of 2012 dated 18.12.2014.

For Petitioners : Mr.E.K.Kumaresan

For Respondent : Mr.N.Manokaran

ORDER

This petition has been filed to set aside the judgment passed the III Additional District and Sessions Judge, Coimbatore, in C.A.No.41 of 2015



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dated 24.10.2017 by confirming the order passed by the Judicial Magistrate No.6, Coimbatore, in D.V.A.C.No.43 of 2012 dated 18.12.2014.

2. This Revision is directed as against the judgment passed by the III Additional District and Sessions Judge, Coimbatore in C.A.No.41 of 2015 dated 24.10.2017 thereby partly allowing the order passed by the Judicial Magistrate No.6, Coimbatore, in D.V.A.C.No.43 of 2012 dated 18.12.2014.

3. The complaint is lodged by the respondent, under the Domestic Violence Act, alleging that the golden jewels weighing 12 sovereigns that were given to her at the time of her marriage was kept in the custody of the petitioners herein and she was made to sleep outside the house during her menstrual periods, during the said period, she was not even given blankets and mat and she was forced to take bath in the terrace of the house in evening times, when her parents and relatives questioned the appellants, they promised to construct a bathroom in the terrace and wanted her to go to her cousin's house for taking bath till such time. Thereafter, alleging that during the month of June 2011, the first petitioner, who is being husband of the respondent herein harassed her to bring dowry from her parents for constructing a house rather than bathroom. Therefore, on the said demand, during the month of July



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2011, the uncle of the respondent namely Selvaraj paid Rs.1,10,000/-. The petitioners also insulted the respondent that she is not able to bear a child even though, after medical checkup, doctors told that the first petitioner is unable to bear a child. Again on 05.11.2011, when the respondent wanted to go to her parent's house to see her parents, were sick, the petitioners refused to allow her to visit her parents.

4. Thereafter, admittedly, the petitioners harassed her and as such she was dropped out of her matrimonial house and finally she lodged a complaint before the Inspector of Police, All Women Police Station, Thudiyalur.

5. On the side of the respondent, PW1 and PW2 were examined and Exs.P1 to P5 were marked and on the side of the petitioners RW1 was examined and Exs.R1 and R2 were marked.

6. On a perusal of oral and documentary evidence produced before the trial, the trial Court allowed the complaint and directed the petitioners to return the jewels which were presented during their marriage. Further, the petitioners were directed to return the amount of Rs.1,10,000/- which was received as dowry for construction of house within one month and they were also directed



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to pay a sum of Rs.5,000/- as monthly maintenance to the respondent herein.

That apart, the petitioners were directed to pay a compensation of Rs.2,50,000/- for the domestic violence suffered by the respondent.

7. Aggrieved by the same, the petitioners preferred an appeal and the Appellate Court partly allowed the same thereby expect the compensation payable by the petitioners, other directions were set aside.

8. The learned counsel for the petitioners would submit that when the trial Court concluded that no domestic violence was meted out by the petitioners, the respondent is not at all entitled for compensation. In fact, the other directions issued by the trial Court were rightly set aside. Though the petitioners denied the fact that the respondent, during her menstrual period, she was directed to stay outside. He would further submit that both the Courts below wrongly concluded that the petitioners have admitted the said fact. He would further submit that in fact the first petitioner is a daily wager and he is only earning Rs.150/- per day. Therefore, the petitioners could not able to pay the compensation as awarded by the trial Court.



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9. Per contra, the learned counsel for the respondent contended that the respondent was subjected to domestic violence at the hands of the petitioners herein and it was duly established by the respondent before the trial Court. The Appellate Court partly allowed the appeal on the ground that already a divorce was granted on the ground of cruelty. He further contended that the respondent refused to live with the first petitioner and as such, the trial Court concluded that the respondent is not entitled for monthly maintenance. In so far as, the direction about returning of Rs.1,10,000/- is concerned, the respondent was not examined before the trial Court. Therefore, the trial Court concluded that the petitioners are not liable to pay any amount to the respondent herein. Therefore, the Appellate Court rightly awarded compensation payable by the petitioner for the domestic violence suffered by the respondent herein at the hands of the petitioners.

10. Heard, Mr.E.K.Kumaresan, the learned counsel for the petitioners and Mr.N.Manokaran, the learned counsel for the respondent and perused the entire materials available on record.

11. It is seen that the first petitioner, who is none other than the husband of the respondent, got married and during their marriage some jewels were



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presented to her by her parents. Further, the respondent was subjected to domestic violence at the hands of the petitioners herein while she was in her matrimonial home. There are several allegations made as against the petitioners. The respondent was examined as PW1 before the trial Court, she categorically deposed that she suffered under domestic violence as against the petitioners. One of the most affected cruelty was that during menstrual periods she was not allowed to take bath inside the house, she was directed to take bath in an open terrace of the house, which was inhuman and violation of human rights. It is unfortunate to state that, in a new era, a woman, suffered due to natural physiological behavior of her body, the cruelty committed by the petitioners which is highly condemnable.

12. The petitioners, being the family members, ought to have provided adequate comfort to the respondent in the form of physical and moral support during menstrual period. Instead of providing comfort to the respondent, the petitioners tortured the respondent during her menstrual period and directed her to take bath in an open terrace. Therefore, the Court below rightly awarded compensation of Rs.2,50,000/- to the respondent herein. Hence, this Court finds no infirmity or illegality in the orders passed by the Courts below.



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WEB COPY 13. Accordingly, the Criminal Revision case stands dismissed.

Consequently, connected miscellaneous petition is closed.

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Index : 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.6,
Coimbatore.



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G.K.ILANTHIRAIYAN, J.
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