

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.NO.22063 OF 2019

AND

CRL.M.P.NO.11440 OF 2019

1.Jothimahalingam

2.Thirunanam

3.Janaka ...Petitioners / Respondent

Vs.

Thenmozhi ...Respondent / Petitioner

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed in Crl.R.C.No.8 of 2018 on the file of the Additional District Court at Ariyalur against M.C.No.10 of 2017 on the file of the learned judicial Magistrate at Jayankondam.

For Petitioners : Mr.P.Parthikannan

For Respondent : No appearance

ORDER

The 1<sup>st</sup> petitioner herein is the husband of one Thenmozhi, who is the respondent herein, alleging that the marriage between the 1<sup>st</sup> petitioner and the respondent during the year 2019, after three years of living with the petitioner as joint family, she left the matrimonial home in view of the harassment met by her in the hands of the 1<sup>st</sup> petitioner and her in-laws.

2. During the marriage her parents gave 15 sovereign gold jewels, household articles worth Rs.70,000/- and Hero Honda two wheeler, which is still in possession of the husband, seeking return of those Sridhana articles, the respondent has filed M.C.No.10 of 2017 before the Judicial Magistrate No.II, Jayamkondam.

3. The respondent examined herself as PW.1 and three other witnesses in support of the case were examined as PW.2 to PW4

and five (5) exhibits were marked as Ex.P1 to Ex.P5, which are the receipts for the purchase of jewels, utensils, two wheeler, marriage photographs and slip containing list of Sridhana articles given during the marriage. There was no contra evidence let in by the petitioner herein.

4. The learned Judicial Magistrate, on considering the evidence placed by the petitioners, disbelieved the case of the petitioners that his wife after separation has come with 4 to 5 persons and took away all the Sridhana and household articles in the Tata Ace van. The said defence is not supported by any evidence.

5. Aggrieved by the same, the petitioners herein have preferred revision before the learned Additional District and Sessions Judge, Ariyalur in Crl.R.No.08 of 2018 and the same was dismissed on 08.03.2019 confirming the order of the Judicial Magistrate No.II, Jayamkondam.

6. Before this Court, the petitioners seek interference of the finding of the Courts below on the ground that the respondent has neither filed divorce petition nor restitution of conjugal rights, she only filed a complaint under Domestic Violence Act, which resulted in acquittal. While so, the petition for return of Sridhana articles is not maintainable. The fact that the respondent has taken away all her Sridhana articles soon after the separation and not before approaching the Courts below.

7. This Court on perusing the case, finds that the petition for return of Sridhana articles has been filed on specific averments that the articles, jewels and vehicle are in possession of the petitioners herein. To substantiate the same, five documents were marked, which goes to show that the jewels were purchased on 08.06.2009 and 16.03.2009, household utensils were purchased on 26.06.2009 and the two wheeler was purchased on 09.07.2009. There is no evidence to disbelieve the evidence of PW.1, which is fully supported by the document evidence viz. Ex.P.1, Ex.P.2 and Ex.P.3 and the estrange wife without resorting to dissolve the marriage or to restitution of conjugal rights is always maintained.

8. Petition filed for return of Sridhana property, there is no bar under the statute to seek redressal of return of Sridhana articles. While so, the petition to interfere with the order of the Courts below ordered by the trial Court allowing the petition for return and the same is confirmed by the appellate Court does not suffer any interference or illegality. Hence, this Criminal Original Petition is liable to be dismissed.

9. In the result, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is also dismissed.

Sd/-  
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

rpl

To

1.The Additional District Judge,  
Ariyalur.

2.The Judicial Magistrate,  
Jayankondam.

+lcc to Mr.P.Parthikannan, Advocate Sr.No.40791

CrI.O.P.No.22063 of 2019  
and  
CrI.M.P.No.11440 of 2019

SVI(CO)  
RVM(12/07/2022)