



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14/09/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.RC(MD)No.781 of 2021

and

Cr1.MP(MD)No.9171 of 2021

1.Dhinesh
2.Mukunthan
3.Bhavani

: Petitioners/
Respondents/
Respondents

Vs.

Dhanalakshni

: Respondent/
Appellant/
Complainant

Prayer: Criminal Revision is filed under section 397 r/w 482 Cr.P.C., against the judgment, dated 16/08/2021 passed by the I Additional District and Sessions Judge (PCR), Trichy in Cr1.A No.60 of 2020, reversing the judgment, dated 23.10.2020 passed by the Judicial Magistrate (Additional Mahila Court), Trichy, in DVC No.103 of 2018.

For Petitioners : Mr.T.Lenin Kumar

For Respondent : Mr.A.John Vincent



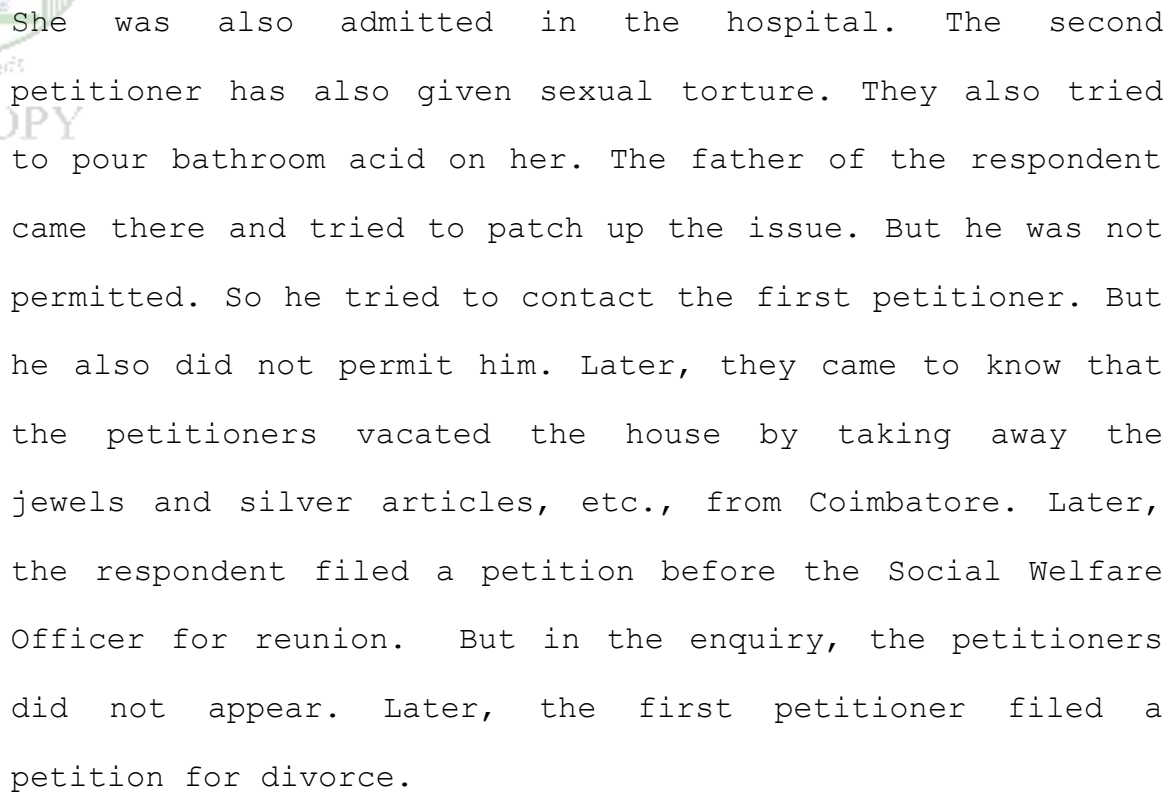
O R D E R

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This criminal revision is filed seeking to set aside the judgment, dated 16/08/2021 passed by the I Additional District and Sessions Judge (PCR), Trichy, in CrI.A No.60 of 2020 reversing the judgment, dated 23.10.2020 passed by the Judicial Magistrate (Additional Mahila Court), Trichy, in DVC No.103 of 2018.

2.The facts in brief:-

The marriage between the revision petitioner, who is the first accused herein and the respondent took place, on 04/12/2016 as per the Hindu customary rites. Right from the marriage, the respondent was not properly treated by the first petitioner and others. They scolded her frequently. She was not even permitted to serve food to the first petitioner. Later, they demanded Rs.2,00,000/- as additional dowry. They also snatched one gold chain of the respondent. She was also ill-treated by the petitioners 2 and 3 stating that she is not fit for family life. Later, the first petitioner took the wife to her parental home and left there. She was again tortured. She became unconscious at one stage. She was not permitted to take food properly.



3. So on the above said grounds, the respondent filed the above said petition in DVC No.103 of 2018 before the trial court seeking various reliefs. That was allowed in part, on 23/10/2022 and the first petitioner was directed to return the articles within 15 days from the date of receipt of the order in the presence of the Social Welfare Department, Thirupattur.

4.As stated above, the appeal, which was filed by the respondent was also allowed, on 16/08/2021 and the trial court order was modified to the effect that the first



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petitioner was directed to pay Rs.4,00,000/- to the respondent within a period of one month. Apart from that, he was also directed to return the jewels weighing about 250.497 grams and 1145 grams of silver articles and to pay her monthly maintenance amount of Rs.5,000/- was ordered.

5.The above said petition was resisted by the petitioners on very many grounds stating that condition was made by the respondent that the first petitioner must secure a job in Coimbatore; With regard to the jewels, it was contended that they were not aware that how much jewel was given; the respondent was residing with A1 only for 15 days; She did not treat the petitioners properly; She behaved as a psycho and purposefully did not take food; fell down in the house and got admitted in the hospital; Even though, compromise talk was arranged by the first petitioner, the respondent and her family members did not cooperate; On 18/07/2018, the first respondent sent a letter for joint living; But there was no reply; A police complaint was given falsely. So on these grounds, a petition for divorce was filed before the Sub Court, Thirupattur. It is also stated that the respondent is working and earning Rs.60,000/- per month.



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6. Now the appellate court recorded a finding, by relying upon Exs.P4 and P13 purchase vouchers for purchasing the jewels and recorded a finding that these documents are genuine documents and that can be relied on; and that those were purchased on the eve of marriage and the purchase vouchers were standing in the name of PW2, who is the father of the respondent. So on that ground, the above said order of return of the jewels has been ordered. With regard to the amount, which was paid towards purchase of Volkswagen (Ameo) Car, the evidence of the first petitioner was disbelieved on the ground that it is absolutely improbable and it is given by the first petitioner father to the father-in-law, who in turn purchased the same in the name of the first petitioner. So on that ground, the above said order of return Rs. 4,00,000/- has been ordered. In respect of domestic violation issue, on the basis of the evidence of PW1, the appellate court has concluded that there was domestic. Apart from that, he has also concluded that there is no document or other evidence to show the income or earning capacity of the respondent. On that ground, the above said payment of maintenance was ordered.



7.The learned counsel appearing for the petitioners would submit that only for 15 days, both were living together as husband and wife and even during the above said period, the respondent behaved indifferently; did not give respect to the elders and on her own accord, she created problem. But absolutely, I find no substantial material placed before the concerned trial court as well as the appellate court to record such a finding.

8. Reading of the evidence of PW1 and RW1 shows that some sort of trouble and misunderstanding arose right from the marriage. It is on record to show that nearly 35 days they were living together in Coimbatore and later, the first petitioner became jobless and tried to shift his residence to Chennai and that was not liked by the respondent. So it appears that there was frequent trouble between them. At one point of time, since the grand-father of the first petitioner met with an accident and admitted in the hospital, both went to the native place and thereafter no cohabitation. The patch up measures alleged took place did not have any result. Even in the revisional stage, the matter was referred to the Mediation and for some unknown reasons, it could not be settled. At one point of time, the respondent was willing to have reunion. For



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that purpose, he has also produced the complaint which was given by the respondent, on 05/10/2018, in the form of typed set of papers. Before that, the first petitioner gave a complaint, over which, CSR No.221 of 2018 was registered over the alleged threat that was made by the respondent and her relatives. Subsequent to that only, the complaint, dated 05/10/2018 was given. Right from the beginning, it is complained on the side of the respondent that A2 and A3 were not permitting her to have good contact with the first petitioner. What actually went wrong between them in the matrimonial home, is a matter for consideration before the trial court, in which the divorce petition is pending between the parties. As of the allegation and counter allegation, finding that there was no big dispute between them even this court tried to make a compromise, for which, the respondent counsel was not at all willing. Even he went to the extent to say that the respondent is not interested for reunion, since the first petitioner is not a reliable person.

9.Now whatever it may be, the relationship between the parties has reached a point of no return at present. The complaint dated, 05/10/2008 relied upon by the learned counsel appearing for the petitioners for the purpose of



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argument is that in the above said complaint, there is no mention about the jewels, etc and only in the second complaint, dated 07/11/2018 there is a mention to the effect that developments and improvements have been made with regard to the jewels and other things. Before that the first petitioner filed a petition for divorce before the Sub Court, Thirupattur and it was also taken cognizance in HMOP No.147 of 2018. It is, dated 27/10/2018. Only subsequent to that, the present complaint came to be filed, which is followed by DVC No.103 of 2018, 13/11/2018. In the divorce petition, some allegations have been made by the first petitioner against the respondent.

10.As stated above, it has been stated by the petitioners that the respondent was not behaving as a dutiful wife and behaved indifferently. In the petition, it has been stated that at the time of leaving the house, she took away all the articles and jewels, etc. It is the counter allegation to the effect that the first petitioner vacated the house in Coimbatore, even without informing the respondent and took away all the articles, etc.

11.No doubt there is no clear indication as to the date of which, the above said jewels, which belongs to the



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respondent were handed over to the first petitioner is highly unbelievable. When the respondent was taken the above said jewels, the first petitioner went to home town for visiting the ailing grand-father. The respondent took all the articles and jewels along with her. That was the reason stated for separation between them. Thereafter, there was no reunion between them. When that is being the contention on the part of the first petitioner to the effect that even at the time of leaving the house, the respondent took away all the articles, jewels etc., is highly unbelievable. Only probability can be taken into account. Only the respondent has taken the home town for visiting the ailing grand father. So in all probabilities, the articles and jewels might have been available in the hands of the first petitioner. On this ground, the finding recorded by the first appellate court cannot be found fault.

12. Similarly with regard to the return of the money also, I affirm the order of the appellate court. No ground has been made out by the revision petitioners to interfere the order of the appellate court and in so far the maintenance amount is concerned, taking into the status of the parties only, the above said order has been passed.



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13.The Hon'ble Supreme Court in the recent judgment in the case of **Ranesh Vs. Neha and another [(2021)2 SCC 324]** has given the detailed guild-lines with regard to the manner, in which the maintenance amount must be fixed. Both the parties were placed in a decent position in the society. Even though, the first petitioner has lost his job for unknown reason, now he himself admitted that he is doing consulting work. So this shows that he is earning sufficient for his livelihood. Even though, there is no clear record to show the actual income of the first petitioner, considering the present economic situation, grant of Rs.5,000/- as claimed by the respondent cannot be construed to be excessive. So on that ground, I find no reason to interfere into the findings of the trial court as well as the first appellate court.

14.In the result, the criminal revision fails and the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

14.09.2022

Internet:Yes/No
Index:Yes/No
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To,

1.The I Additional District and
Sessions Judge (PCR), Trichy.

2.The Judicial Magistrate,
(Additional Mahila Court),
Trichy.



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G. ILANGO VAN, J. ,

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Cr1.RC (MD) No. 781 of 2021
and
Cr1.MP (MD) No. 9171 of 2021

14/09/2022



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