



Crl.R.C.Nos.207 & 470 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM:

The Honourable MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.R.C.Nos.207 & 470 of 2021

and

Crl.M.P.Nos.4812 & 7664 of 2021

Crl.R.C.No.207 of 2021

Karthik

...Petitioner/Respondent

-Vs-

Gayathri Gnaneshwari

...Respondent/Petitioner

Crl.R.C.No.470 of 2021

Gayathri Gnaneshwari

...Petitioner/Appellant/
Petitioner

Karthik

...Respondent/Respondent/
Respondent

Prayer in Crl.R.C.No.207 of 2021:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C, to set aside the order partly allowing the Appeal in C.A.No.530 of 2018, passed by the learned V Additional District and Sessions Judge, Coimbatore, dated 15.12.2020 by modifying the order of the learned Judicial Magistrate No.II, Coimbatore, passed in D.V.A.No.25 of 2013 dated 18.09.2018.



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Prayer in Crl.R.C.No.470 of 2021:- Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C, to call for the records and modify the order passed by the learned V Additional District Sessions Judge, Coimbatore, made in C.A.No.530 of 2018 dated 15.12.2020 partly allowing and modifying the order to pay a compensation of Rs.3,00,000/- under Section 22 of D.V. Act and confirming the order of dismissal under Section 19(8) of D.V. Act passed by the learned Judicial Magistrate No.II, Coimbatore, in D.V.A.No.25 of 2013 dated 18.09.2018 dismissing the Petition filed by the Petitioner under Section 19(8) and 22 of D.V. Act and consequently directing the Respondent to return of jewels of 25 sovereigns of gold ornaments and enhance the amount of compensation.

Crl.R.C.No.207 of 2021

For Petitioner : Mr.B.Singaravelu
For Respondent : Mr.T.R.Ravi

Crl.R.C.No.470 of 2021

For Petitioner : Mr.T.R.Ravi
For Respondent : Mr.B.Singaravelu
for Mr.V.S.Kesavan

COMMON ORDER

Crl.R.C.No.207 of 2021 is filed by the 1st Respondent/husband in D.V.A.No.25 of 2013 before the learned Judicial Magistrate No.II, Coimbatore.



2. Crl.R.C.No.470 of 2021 is filed by the Petitioner/wife in D.V.A.No.25 of 2013 on the file of the learned Judicial Magistrate No.II, Coimbatore.

3. Learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 submitted his arguments.

4. As per his submission, the Petitioner/wife in D.V.A.No.25 of 2013 had filed D.V.A Petition against the husband. The marriage between the Revision Petitioner herein and the Respondent herein took place on 27.01.2013. It was a love marriage. The Respondent herein as wife, lived in the matrimonial home only for the period of six months. Subsequently, she left the matrimonial home. She did not return. She filed complaint before the All Women Police Station, Coimbatore. Subsequently, D.V.A.No.25 of 2013 was filed before the Court of the learned Judicial Magistrate No.II, Coimbatore. By the time the learned Judicial Magistrate No.II, Coimbatore, proceeded with the trial/enquiry in D.V.A.No.25 of 2013, the Petitioner in D.V.A.No.25 of 2013 was already divorced and had contracted the second marriage. She had deposed as P.W.1. Her parents deposed as P.W.2 and P.W.3.



WEB COPY 5. The learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 invited the attention of this Court to the judgment passed by the learned Judicial Magistrate No.II, Coimbatore, in D.V.A.No.25 of 2013 dated 18.09.2018, in which the learned Trial Judge had discussed the evidence of the Petitioner and the Respondents and had declined the relief sought by the Petitioner in the Domestic Violence Application, stating she is not entitled to any of the relief.

6. In the course of the discussion, the learned Trial Judge had observed that even though she had sought return of jewels given by her parents at the time of marriage, she and her father signed the receipt acknowledging return of sridhana articles, which was marked as Ex.R1 on the side of the 1st Respondent/husband in D.V.A.No.25 of 2013 before the All Women Police Station. Also, the learned Trial Judge had observed that even though in the Domestic Violence Case she had claimed 40 sovereigns, in the evidence she claimed 25 sovereigns and the description of the each and every jewel had not been stated. Therefore, the learned Trial Judge had declined to grant any relief, including compensation.



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7. D.V.A.No.25 of 2013 was dismissed by the learned Judicial Magistrate No.II, Coimbatore, by judgment dated 18.09.2018. Aggrieved by the order of dismissal of D.V.A.No.25 of 2013, the Petitioner/wife preferred Crl.A.No.530 of 2018 before the learned V Additional District and Sessions Judge, Coimbatore. The same was disposed off by the learned V Additional District and Sessions Judge, Coimbatore, by judgment dated 15.12.2020.

8. The learned V Additional District and Sessions Judge, Coimbatore, had observed as follows:

16.As of now, the Petitioner has got divorce and remarried. Imagine the amount of pain and suffering she has undergone that she is pressing for the compensation even after divorce and remarriage. She need to be suitably compensated for the suffering under the 1st Respondent, whom she loved and married with found hopes that he will be a truthful and loving husband. Her dream and expectation were crushed by the Respondent by the harassment and sufferings met by her.

17.Section 22 of the Domestic Violence Act read as below:

22.Compensation orders.—In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.



18. Applying the above provision, the Petitioner will be entitled for compensation and damaged for the injuries, including mental torture and emotional distress, cause by the acts of domestic violence. Hence, considering the fact and circumstance, that the marriage has taken place on 27.01.2013 and they are separated from 23.07.2013 and that they have lived together for about 6 months, this Court find is just and reasonable to grant a compensation of Rs.3,00,000/- to the Petitioner towards the injuries, including mental torture and emotional distress cause by the acts of domestic violence committed by the Respondent. In **2014 SCC 10 736 (Juveria Abdul Majid Patni Vs. Atif Iqbal Mansoori)**, it was held that an act of domestic violence once committed, subsequent decree of divorce will not absolve liability of husband from the offence committed or to deny the benefit to which aggrieved person is entitled under the Domestic Violence Act. Hence, this point is answered in the affirmative.

Point No.3:

19. In view of the findings in Point Nos.1 above there is no illegality or perversity in the order of the trial court rejecting the relief under Section 19(8) of Domestic Violence Act. But, the order of the trial Court rejecting the relief under Section 22 of Domestic Violence Act, for compensation is not correct. The trial Court failed to appreciate the oral and documentary evidence in proper perspective and committed perversity in disregarding the same. Hence, the Appeal has to be partly allowed with respect to the relief under Section 22 of Domestic Violence Act. Accordingly, this point is answered.

and thereby allowed the Appeal granting compensation for the emotional and mental stress and pain caused by him, thereby directing the 1st Respondent in D.V.A.No.25 of 2013 and the Respondent/husband in Crl.A.No.530 of 2018 to pay compensation of Rs.3 lakhs under Section 22



of the Domestic Violence Act.

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9. Aggrieved by the judgment in Criminal Appeal allowing partly the claim of the 1st Respondent in D.V.A.No.25 of 2013, the Respondent/husband in Crl.A.No.530 of 2018 has come up before this Court by way of filing this Crl.R.C.No.207 of 2021.

10. It is the contention of the learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 that the husband is now unemployed. The wife had lived with him only for a short period of six months. She had left the matrimonial home on her own volition. She had preferred the complaint against her husband before the All Women Police Station, Coimbatore. She had received the sridhana articles and was signed an acknowledgement by her and her father. Subsequently, she had filed H.M.O.P.No.916 of 2016 before the learned Additional Principal Judge, Family Court, Coimbatore, and obtained decree of divorce against the Revision Petitioner herein and the 1st Respondent in D.V.A.No.25 of 2013. Subsequently, she contracted the second marriage and she is now living with her husband. Therefore, the observation of the learned V Additional District and Sessions Judge, Coimbatore, in Crl.A.No.530 of 2018 partly allowing the claim for compensation by the wife, the Petitioner in



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D.V.A.No.25 of 2013 is erroneous and perverse and is to be set aside, and this Crl.R.C.No.207 of 2021 is to be allowed.

11. The Petitioner in Crl.R.C.No.470 of 2021 is the Petitioner in D.V.A.No.25 of 2013. She had filed Crl.R.C.No.470 of 2021.

12. The learned Counsel for the Revision Petitioner in Crl.R.C.No.470 of 2021 submitted his arguments vehemently objecting to the submission of the learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 that the Petitioner in D.V.A.No.25 of 2013 was in love with the 1st Respondent in D.V.A.No.25 of 2013. Subsequently, they married on 27.01.2013. It is the submission of the learned Counsel for the Revision Petitioner/wife that after the marriage, the Petitioner in D.V.A.No.25 of 2013 was ill-treated by the husband. Only after the marriage, she came to know that she was not an engineer, as claimed by him during the love affair. During the love affair, he represented himself as civil engineer. Subsequently, she came to know that he was unemployed and an alcoholic. After consuming alcohol, he used to pick up quarrel with the wife and torture her physically and mentally. She was forced to live in the matrimonial home. Due to the conduct of the husband, she preferred a



complaint before the All Women Police Station, Coimbatore, and due to the conduct of the husband, she subsequently preferred D.V.A.No.25 of 2013 before the learned Judicial Magistrate No.II, Coimbatore. Also, due to the physical and mental torture caused by the Respondent herein, she had filed H.M.O.P.No.916 of 2016 on the file of the learned Additional Principal Judge, Family Court, Coimbatore, on the grounds of cruelty and desertion.

13. After enquiry, the learned Additional Principal Judge, Family Court, Coimbatore, by judgment dated 27.11.2017, granted the decree of divorce in favour of the wife. When the Domestic Violence Case came up for hearing, the wife, the Petitioner in D.V.A.No.25 of 2013, was deposed as P.W.1. Her parents were deposed as P.W.2 and P.W.3. In the cross-examination of P.W.1, she had admitted the acknowledgement executed by her and her father under Ex.R1 before the All Women Police Station, Coimbatore.

14. It is the submission of the learned Counsel for the Revision Petitioner/wife in Crl.R.C.No.470 of 2021 that she had clearly stated about the assessment and liability regarding the jewels that were left in the hands or in the custody of the Revision Petitioner/wife when she left the



matrimonial home. Therefore, she had clearly stated that jewels in her evidence. The same was confirmed by the evidence of her parents as P.W.2 and P.W.3. Still, the learned Judicial Magistrate No.II, Coimbatore, in the course of the judgment discussing the evidence, rejected the contention or claim of the Petitioner/wife in D.V.A.No.25 of 2013 on the ground that she had obtained decree of divorce. She had executed acknowledgement letter before the All Women Police Station, Coimbatore, under Ex.R1, which was duly signed by her and her father. She cannot claim return of jewels and her claim regarding return of jewels was rejected in the light of the evidence. The learned Trial Judge by order dated 18.09.2018 in D.V.A.No.25 of 2013, had rejected the prayer of the Petitioner/wife in D.V.A.No.25 of 2013.

15. Aggrieved by the order of D.V.A.No.25 of 2013 passed by the learned Judicial Magistrate No.II, Coimbatore, dated 18.09.2018, the wife/Petitioner in D.V.A.No.25 of 2013 had preferred Crl.A.No.530 of 2018 before the learned V Additional District and Sessions Judge, Coimbatore, in which the learned Appellate Judge has observed as mentioned above.



16. The learned Counsel for the Revision Petitioner in Crl.R.C.No.470 of 2021 invited the attention of this Court to the observation of the learned V Additional District and Sessions Judge, Coimbatore, in paras 16 to 20 of the judgment. The mental and emotional stress and pain suffered by the Petitioner/wife was clearly observed by the learned V Additional District and Sessions Judge, Coimbatore, and had partly allowed the Criminal Appeal thereby granting compensation of Rs.3 lakhs to the Appellant, the Petitioner in D.V.A.No.25 of 2013.

17. It is the contention of the learned Counsel for the Revision Petitioner/wife in Crl.R.C.No.470 of 2021 that originally she had claimed Rs.15 lakhs. The learned Trial Judge rejected her claim. The learned Appellate Judge had granted only Rs.3 lakhs. Therefore, she has come up before this Court by filing this Crl.R.C.No.470 of 2021, seeking enhancement of the same.

18. **Point for consideration in Crl.R.C.No.207 of 2021:**

Whether the judgment of Crl.R.C.No.207 of 2021 filed by the husband, who is the 1st Respondent in D.V.A.No.25 of 2013, before the learned Judicial Magistrate No.II, Coimbatore, is to be allowed and the judgment passed by the learned V Additional District and Sessions Judge, Coimbatore, is to be set aside?



19. **Point for consideration in Crl.R.C.No.470 of 2021:**

Whether the judgment passed by the learned V Additional District and Sessions Judge, Coimbatore, granting compensation to the wife in Crl.A.No.530 of 2018 dated 15.12.2020 is to be enhanced?

20. On perusal of the order passed by the learned Trial Judge in dismissing D.V.A.No.25 of 2013 and the judgment of the learned V Additional District and Sessions Judge, Coimbatore, partly allowing the claim of the wife in Crl.A.No.530 of 2018, it is found that the learned Trial Judge, on the basis of appreciation of evidence had arrived at the conclusion that the wife would not be entitled to the relief sought in D.V.A.No.25 of 2018 and hence dismissed it. In the Appeal the learned Appellate Judge on the basis of the very same appreciation of evidence had accepted the reasoning of the learned Trial Judge in arriving at the conclusion. At the same time, the learned Appellate Judge had observed that the learned Trial Judge failed to appreciate the fact that after love affair resulting in marriage, the conduct of the husband had made the wife approach the Family Court seeking divorce on the ground of cruelty, which was lost sight of by the learned Trial Judge for consideration, thereby rejecting the claim for compensation.



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21. In the course of the judgment, the learned Appellate Judge had observed in para 16, and in the light of Section 22 of the Domestic Violence Act, and in the light of the reported ruling in the case of ***Juveria Abdul Majid Patni Vs. Atif Iqbal Mansoori*** reported in ***2014 SCC 10 736*** had granted compensation for the mental and emotional stress and pain suffered by the wife, and in the light of the evidence before the learned Trial Judge. In the light of the very same evidence by the learned Appellate Judge, the order of the learned Trial Judge was upheld. At the same time, the learned Appellate Judge had found out that within six months of the marriage, the wife left the matrimonial home due to the torture caused on her by the husband, who is addicted to alcohol. He observed that he had undergone physical and mental emotional pain and had accordingly granted Rs.3 lakhs compensation to the Appellant/wife.

22. Considering the submission of the learned Counsel for the Revision Petitioner/wife in Crl.R.C.No.470 of 2021 and the submission of the learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021, the evidence of the parties before the learned Trial Judge that they lived as husband and wife only for the period of six months. The wife left the matrimonial home as per the submission of the Respondent. It is to be



construed that the conduct of the husband had resulted in the Petitioner giving a complaint to the All Women Police Station, Coimbatore, and subsequently preferred complaint before the learned Trial Judge under the Domestic Violence Act in D.V.C.No.25 of 2013. Therefore, the husband cannot claim that the judgment of the learned Appellate Judge observing that emotional and mental stress and pain suffered by her. The observation by the learned Appellate Judge that she has to be compensated cannot be faulted by this Court. The contention of the learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 seeking to set aside and the judgment of the learned Appellate Judge in Crl.A.No.530 of 2018 is found unacceptable and unreasonable in the light of the judgment quoted by the learned Appellate Judge.

23. The argument of the learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021, the 1st Respondent in D.V.A.No.25 of 2013, that she had obtained decree of divorce against the husband/1st Respondent in D.V.A.No.25 of 2013 and had contracted the second marriage. Subsequently, she married and is living happily. Therefore, the argument of the learned Counsel for the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 that the judgment of the



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learned V Additional District and Sessions Judge, Coimbatore, granting compensation to the wife as perverse. The observation made by the learned Appellate Judge granting Rs.3 lakhs compensation to the Revision Petitioner/wife is found to be very meagre amount as per the submission of the learned Counsel for the Revision Petitioner in Crl.R.C.No.470 of 2021. Therefore, the wife as Revision Petitioner had filed Crl.R.C.No.470 of 2021 seeking enhancement.

24. As per the evidence before the learned Trial Judge, the 1st Respondent/husband in D.V.A.No.25 of 2013 is not an engineer as claimed by him during love affair. Subsequently, after marriage, the wife came to know that he was not an engineer. Therefore, granting Rs.3 lakhs compensation to the wife is considered to be a reasonable amount. Therefore, the submission of the learned Counsel for the Revision Petitioner in Crl.R.C.No.207 of 2021/husband claiming that the order granting compensation to the wife in Criminal Appeal by the learned V Additional District and Sessions Judge, Coimbatore, as perverse cannot be accepted in the light of the above facts and circumstances of this case. Also, the claim of the wife as Revision Petitioner in Crl.R.C.No.470 of 2021 seeking enhancement of compensation from the husband/Respondent is found



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unreasonable considering his status as not employed as Engineer. Not even qualified as an Engineer, particularly his present status as unemployed.

Therefore, the contention of the Revision Petitioner in Crl.R.C.No.207 of 2021 and the contention of the Revision Petitioner in Crl.R.C.No.470 of 2021 are both found unreasonable and unacceptable. Hence, both are rejected. Further, there is no possibility of enhancement as the Revision Petitioner/husband in Crl.R.C.No.207 of 2021 is unemployed.

25. In the light of the above discussion, the point for consideration in Crl.R.C.No.207 of 2021 is answered in favour of the Respondent and against the Revision Petitioner.

26. In the light of the above discussion, the point for consideration in Crl.R.C.No.407 of 2021 is answered in favour of the Respondent and against the Revision Petitioner.

Accordingly, both Crl.R.C.No.207 of 2021 and Crl.R.C.No.470 of 2021 stands dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

09.10.2023

cda

Index : Yes/No



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To

- 1.The V Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No.II,
Coimbatore
- 3.The Additional Principal Judge,
Family Court, Coimbatore,
- 4.The Section Officer, VR Records,
High Court, Chennai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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