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Crl.RC.No.1077 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1077 of 2020
and CMP.Nos. 7489 & 7491 of 2020?

Javithali
W/o. Abdulwahab

...Petitioner

Vs.

Nasheeba
W/o. Javithali

... Respondent

Prayer: Criminal Revision filed under Section 397 r/w 401 of Criminal Procedure Code, praying to set aside the order dated 14.08.2020 made in Crl.A.No. 11 of 2020 by the learned Principal Sessions Judge, Salem confirming the order passed by the learned Judicial Magistrate, Additional Mahila Court, Salem in CMP.No. 1429 of 2017 in DVOP.No. 86 of 2015 dated 07.12.2019

For Petitioner	: Mr. C.Prabakaran
For Respondent	: Mr.J.Sudhakaran

ORDER

Challenging the order dated 14.08.2020 made in Crl.A.No. 11 of 2020 by the learned Principal Sessions Judge, Salem the present revision has been filed.



2. The petitioner herein is the husband and the respondent herein is the wife.

The respondent/wife filed a petition against the petitioner/husband under Domestic violence Act and the same was taken on file by the Judicial Magistrate, Salem in in DVOP.No. 86 of 2015. Pending the said petition, the respondent/wife has filed an interim application in CMP.No.1429 of 2017 for interim residential relief till the disposal of the main case. The said petition was allowed by the Judicial Magistrate by order dated 07.12.2019. Aggrieved by the said order, the petitioner has filed an appeal before the Principal Sessions Judge, Salem in CrI.A.No. 11 of 2020. The appellate Court also confirmed the said order passed by the Judicial Magistrate by an order dated 14.08.2020. Hence the present revision petition.

3. The learned counsel for the petitioner would submit that the respondent had voluntarily left the house and has been leading a luxurious life in her parental home with sufficient means to maintain herself and the child. On the contrary, the petitioner herein is struggling to maintain his big family consists of eight persons. The learned counsel for the petitioner would further submit that the respondent had only caused mental cruelty to the respondent and his family members and only with a view to harass the petitioner, she filed petitions one after other against the petitioner and his family members. The trial Court without considering the above



aspects has allowed the petition filed by the respondent for interim residential relief and the same was allowed by the appellate Court by order dated 14.08.2020.

Therefore, the said order is liable to be set aside and the present revision to be allowed.

4. Heard both sides and perused the documents available on record.

5. Though the learned counsel for the petitioner/husband has strongly contended that the respondent had filed the application for the residential right is only to harass the petitioner and to delay the proceedings in a suit for divorce, the learned counsel for the petitioner has fairly submitted before this Court that the suit for divorce was dismissed.

6. Considering the facts and circumstances of the case and taking note of the fact that the relationship between the petitioner and the respondent are admitted and the suit filed for divorce was also dismissed and as on date relationship between the petitioner and the respondent is continuing as husband and wife, this Court is of the view that the respondent/wife with no option is living with her paternal home and she requires interim residential relief. Therefore, this Court finds no perversity in the orders of the trial Court and the lower appellate Court granting interim



residential relief to the respondent and the same does not require any interference by this Court.

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7. In view of the above, the criminal revision petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. However liberty is granted to the petitioner/husband to work out remedy in the manner known to law.

8. Since the case filed against the petitioner herein in DVOP.No. 86 of 2015 is pending from the year 2015, the Judicial Magistrate, Additional Mahila Court, Salem is directed to expedite the proceedings and complete the same within a period of four (4) months from the date of receipt of a copy of this Order. Both the parties concerned are also directed to extend their fullest cooperation, so as to enable the trial Court to comply the order of this Court within the time stipulated by this Court.

04.01.2023

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P.VELMURUGAN,J.
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19.12.2022