



Crl.R.C.(MD)No.280 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.280 of 2020

T.Saraswathi

.. Petitioner/Appellant/Complainant

Vs.

Thangavel

.. Respondent/Respondent/Respondent

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to allow the revision and set aside the Judgment dated 12.12.2019 made in Crl.Appeal No.17 of 2019 on the file of the Learned VI-Additional Sessions Judge, Madurai, confirming the Judgment dated 16.10.2018, made in M.C.No.03 of 2013 on the file of the Learned Judicial Magistrate, Additional Mahila Court, Madurai.

For Petitioner : Mr.N.Anandakumar

For Respondent : Mr.Na.Manimaran



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ORDER

The wife before the Court below filed this petition challenging the order passed in M.C.No.3 of 2013 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai, under Section 207 of the Domestic Violence Act, confirmed by the appellate Judge in Crl.A.No.17 of 2019 on the file of the VI-Additional Sessions Judge, Madurai.

2. The wife/respondent filed the petition under Section 20 of the Domestic Violence Act, claiming the education expenditure of her son upto his Ph.D., studies. The petitioner stated that on 20.03.1988, he married the respondent. On 31.01.1989 she delivered the male child. Further, there is some dispute arose between both of them. The petitioner also filed a suit for partition against the respondent and the same was dismissed as not pressed. Thereafter, even though the petitioner earned through her occupation, in view of the educational expenditure, she filed a petition under Section 20 of the Domestic Violence Act claiming monitory relief under Section 20 of the Act towards education expenditure of her son. The same was contested by the



3. The respondent/husband filed the counter denying the same allegation made in the petition and stated that earlier there is a maintenance claim petition filed in M.C.No.34 of 2001. The same was dismissed by the learned Judicial Magistrate, Melur, toward the claim made by the petitioner and in respect of the claim to the child alone, the trial Court granted Rs.1,000/- only. He also stated that the enhancement petition also filed and the same was dismissed. He further stated that the petition under Section 20 of the Domestic Violence Act is not maintainable since his son already attend majority and now, he is above 18 years. Hence he seeks for dismissal of the petition.

4. The petitioner, to prove her claim, examined herself as P.W.1 and also marked Ex.P1 to Ex.P13 and the respondent himself examined as R.W.1 and marked Ex.R1 to Ex.R7.



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5. The learned Judicial Magistrate, considering the Domestic Violence provisions and also considering the facts and circumstances of the case and pleadings as well as the evidence of the parties, dismissed the petition stating that her son is more than 18 years and also attends majority. There is no provision in the Domestic Violence Act to seek relief for the children above the age of 18 years. Aggrieved over the order, the petitioner also filed a statutory appeal before the learned VI-Additional Sessions Judge, Madurai. The same was also dismissed by the Appellate Court by confirming the trial Court order. Hence, both the Courts below considered the specific provision of Section 2(b) of the Domestic Violence Act, which reads as follows:

“2(b). "child" means any person below the age of eighteen years and includes any adopted, step or foster child;”

6. As per Section 2(b) of the Domestic Violence Act, when the son is above 18 years, the relief under the Act is not maintainable. Both the Courts below considered the above aspect and hence, this Court has no



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jurisdiction to interfere the finding of the Courts below and also there is no dispute over the son is above the age of 18 years. In the circumstances, this Court finds no merits in this petition and accordingly, this Criminal Revision Petition is dismissed. No Costs.

18.12.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

PJL/*sbn*

To

1. The VI-Additional Sessions Judge,
Madurai.
2. The Judicial Magistrate,
Additional Mahila Court,
Madurai.
3. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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