

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 831 of 2017
with
IA No. CRAN 1 of 2017 (CRAN 1659 of 2017)
with
CRAN 8 of 2019 (CRAN 5006 of 2019)
(Assigned)

Mamman Rizvi & Ors.
Vs.
Meher Afza

Mr. Ayan Bhattacharjee
Mr. Nirmalya Chatterjee
... For the petitioners

Mr. Sailesh Kumar Gupta
... For the opposite party

1. This revisional application has been filed by the petitioners challenging the order dated 21st February, 2017 passed by the Court of the learned Additional Sessions Judge at Alipore, South 24-Parganas, in connection with Criminal Appeal No.99 of 2016 thereby affirming the order dated 5th May, 2016 passed by the learned Judicial Magistrate, 2nd Court at Alipore, South 24-Parganas, in connection with C. Case No.10153 of 2014 corresponding to TR No.715 of 2014 under Section 12 of the Domestic Violence Act, 2005.

2. At the time of hearing, Mr. Ayan Bhattacharjee, learned advocate, on behalf of the petitioners has submitted that they have only assailed the residential order passed by the learned Judicial Magistrate, 2nd Court, Alipore, affirmed by the learned Additional Sessions Judge in appeal in favour of the opposite

party. Mr. Bhattacharjee has tried to make this Court understand that the husband of the opposite party ought to have been directed to make alternative accommodation for the opposite party, though Mr. Bhattacharjee admitted the share of the husband of the opposite party in the shared household property.

3. Mr. Sailesh Kumar Gupta, learned advocate, appearing on behalf of the opposite party has drawn my attention to a document, i.e., Power of Attorney and thereby he has submitted that the husband of the opposite party has the exclusive ownership of the property in question.

4. However, Mr. Bhattacharjee did not deny that the husband of the opposite party is, at least, owned a share of the shared household property within the meaning of Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 (in short, 'PWDV Act').

5. The fact in brief is that the aggrieved party, i.e., the opposite party herein was married to one Shah Hasnain Reza, i.e., respondent no.1 in connection with C. Case No.10153 of 2014, according to Islamic rites and customs. Other respondents are relatives of her husband. Other respondents used to reside in the shared household and they were instigating the respondent no.1 to break up marital relationship.

6. It is not disputed that the respondent no.1 works with an USA based company and stays in New York and earned Rs.1,50,000/- per month and frequently visits Calcutta.

7. Opposite party herein prayed for residence order at the shared household along with monetary relief for Rs.40,000/- per month from her husband, i.e., respondent no.1 in connection with C. Case No.10153 of 2014.

8. After hearing both sides, learned Magistrate passed an order directing the husband of the opposite party herein to pay Rs.10,000/- per month as monetary relief under Section 20 of the PWDV Act to the aggrieved party, i.e., the opposite party herein and also passed an order in favour of the aggrieved party, i.e., the opposite party herein a residence order at the shared household property situated at 54, Bright Street, Police Station – Karaya, Kolkata – 700017.

9. Considering the facts and circumstances in terms of the argument advanced before this Court, I do not find any reason to interfere with the order dated 5th May, 2016 further affirmed by the learned Additional Sessions Judge, Alipore, South 24-Parganas, in Criminal Appeal No.99 of 2016, while nothing was shown to the learned Trial Court regarding ownership of the petitioners over the shared household property. That apart, nothing is shown to this Court to interfere with the residence order in respect of share hold house owned by the husband of the opposite party.

10. In the aforesaid view of the matter, the revisional application, being CRR 831 of 2017, stands dismissed.

11. Interim order stands vacated.

12. The connected applications, being CRAN 1 of 2017 (CRAN 1659 of 2017) and CRAN 8 of 2019 (CRAN 5006 of 2019), also stand disposed of.

13. Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)