



Crl.R.C.No.748 of 2018
and Crl.M.P.No.8614 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.748 of 2018
and Crl.M.P.No.8614 of 2018

Kumarasamy

... Petitioner

Vs.

C.Lakshmi

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code 1973, to set aside the judgment in Crl.A.No.107/2016 dated 05.03.2018 passed by the VI Additional Sessions Judge, City Civil Court, Chennai, confirming the judgment in C.C.No.8740/2014 dated 16.03.2016 passed by the X Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.A.N.Rajan

For Respondent : No appearance



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ORDER

Challenging the judgment and order passed by VI Additional Sessions City Civil Court, Chennai in Crl.A.No.107/2016, the present criminal revision is filed by the husband / revision petitioner.

2. Heard Mr.A.N.Rajan, learned counsel for the revision petitioner. No representation for the respondent.

3. The facts leading to the filing of the present criminal revision are as follows :

3.1. The marriage between the revision petitioner and the respondent was solemnized on 26.05.2005 as per Hindu Rites and Customs. At the time of marriage the parents of the respondent/wife presented 45 sovereigns of gold jewels to her and 5 sovereigns of gold jewels to the revision petitioner. After marriage they were residing in Ayanavaram, Chennai, and they are blessed with two male children.



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3.2. According to the respondent/wife, only after marriage she came to know that her husband, the revision petitioner was addicted to alcohol and also had illicit relationship with several ladies. She was also treated cruelly by her husband and her in-laws. She therefore preferred a private complaint against the present revision petitioner as well as four others before the X Metropolitan Magistrate, Egmore, Chennai under Sections 18, 19, 20 & 22 of Domestic Violence Act, 2005 in C.C.No.8740/2014. The present revision petitioner filed a counter denying the allegations of the respondent/wife.

4. In the trial Court, the respondent / complainant examined herself and marked Ex.P1 to Ex.P9. The revision petitioner examined himself and two other witness and marked Ex.R1 to Ex.R4.

5. Learned X Metropolitan Magistrate, Egmore, Chennai after analysing the oral and documentary evidence adduced on both sides dismissed the petition as against the respondents 2 to 5 and allowed the petition against the present revision petitioner with the following



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- i. the petitioner/husband should refrain from visiting the respondent/wife either in her residence or at her work place and should not indulge in any kind of domestic violence.
- ii. He should pay a sum of Rs.5,000/- per month towards monthly maintenance of his children from the date of petition.
- iii. The arrears amount from the date of filing of the case till the date of judgment should be paid within a period of two months
- iv. The future maintenance amount should be paid on or before 5th of every English calendar month.
- v. He should also pay a compensation of Rs.1,00,000/- to the respondent/wife within two months time.

This order was passed by the trial court judge on 16.03.2016.

6. Aggrieved over the same, the present revision petitioner filed an appeal in Crl.A.No.107/2016 before the VI Additional City Civil Court, Chennai. The learned VI Additional Judge after analysing the



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evidence on record, vide his judgment and orders dated 05.03.2018, confirmed the judgment and orders passed by the learned X Metropolitan Magistrate, Egmore, Chennai, as against which the present criminal revision is filed.

7. Mr.A.N.Rajan, learned counsel for the revision petitioner would contend that subsequent to filing of the criminal appeal, the respondent/wife got a job in Southern Railways as Khalasi and is now well placed. However his contention is that after passing of the judgment in Crl.A.No.107/2016 both the revision petitioner and the respondent lived together and the respondent after getting a job in Southern Railways sent out the revision petitioner from home. He would therefore contend that in view of the change in circumstances, the orders passed by the learned VI Additional Session Judge, City Civil Court, Chennai in Crl.A.No.107/2016 is to be set aside.



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8. It is seen from the records that the respondent was working in the Railways department and she got this job on compassionate grounds on the death of her father. The father of the respondent was working in Southern Railways and he died while he was in service. She got this job even before filing of the private complaint. In fact she was not given any maintenance amount by both the Courts below and the present revision petitioner was directed to pay a sum of Rs.5,000/- per month towards maintenance only for his two children. Therefore, the contention of the learned counsel for the revision petitioner that subsequent to the orders passed by the learned VI Additional Session Judge in Crl.A.No.107/2016 the couple were living together and the wife after getting a job in Southern Railways she sent her husband from home cannot be accepted.

9. As per Section 3 of Protection of Women from Domestic Violence Act, 2005 any act, omission or commission or conduct of the petitioner/husband shall constitute domestic violence and it includes

- i. physical abuse



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ii. sexual abuse

iii. verbal and emotional abuse and

iv. economic abuse

In the private complaint before the X Metropolitan Magistrate, Egmore, Chennai, the respondent had alleged that she was unable to bear torture meted out to her as the present revision petitioner used to beat her after consuming alcohol. This kind of act of the present revision petitioner would come under the clause 'physical abuse'. She had also adduced acceptable evidence before the trial court to substantiate all her contentions and both the Courts had concurrently concluded that the present revision petitioner abused his wife both physically and mentally.

10. It is also relevant to point out that the protection officer in his 'domestic incident report' had clearly stated the torture meted out to the respondent/wife at the hands of her husband/revision petitioner.

11. Mr.A.N.Rajan, learned counsel for the revision petitioner would contend that the revision petitioner is only a vegetable vendor and



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he is unable to maintain himself. This contention of the learned counsel for the revision petitioner cannot be accepted, because, as a father the revision petitioner is bound to maintain his children. Both the Courts below had rightly appreciated the evidence on record and there is no reason for this Court to interfere with the same.

12. Accordingly, the present Criminal Revision Petition is dismissed. No costs. Consequently, connect Criminal Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

1. The VI Additional Sessions Judge, City Civil Court, Chennai.
2. The X Metropolitan Magistrate, Egmore, Chennai.
3. The Section Officer, Criminal Section, Madras High Court, Chennai.



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R. HEMALATHA, J.

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