



C.R.P.(MD)Nos.1205 and 1564 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)Nos.1205 and 1564 of 2024

and

C.M.P.(MD)No.6963 of 2024

C.R.P.(MD)No.1205 of 2024:

C.Pradeesh

... Petitioner/Appellant/1st Respondent

Vs.

Nandhini

... Respondent/Respondent/Petitioner

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order (Partly Allowed) in Crl.A.No.19 of 2021 on the file of the Additional District and Sessions Court, Palani dated 01.03.2024 wherein restricted payment of Rs.10,000/- as monthly maintenance and restricted compensation of Rs.10,00,000/- to the respondent against the order in DVOP.No.22 of 2020 on the file of the Judicial Magistrate Court, Palani dated 02.08.2021 wherein the payment 15,000/- as monthly maintenance, protection from Domestic Violence, residential rent of Rs.5,000/- compensation of Rs.15,00,000/- and cost of Rs.10,000/- by allowing this revision petition.

For Petitioner : Mr.S.Selvakumar

For Respondent : Mr.K.S.Balaji



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C.R.P.(MD)No.1564 of 2024:

Nandhini

... Petitioner/Respondent/Petitioner

Vs.

1.C.Pradeesh

2. Chandrakanthan

3.C.Sakunthala

4.S.Janaki

... Respondents/Appellants/Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 01-03-2024 made in C.A.No.19 of 2021 on the file of the Additional District and Sessions Judge, Palani, Dindigul District whereby partly modifying the order dated 02-08-2021 made in D.V.O.P.No.22 of 2020 on the file of the Judicial Magistrate Court, Palani, Dindigul District dated 02-08-2021 and confirm the judgment in D.V.O.P.No.22 of 2020 on the file of the Judicial Magistrate Court, Palani, Dindigul District, dated 02-08-2021.

For Petitioner : Mr.K.S.Balaji

For Respondents : Mr.S.Selvakumar

* * *

COMMON ORDER

Heard both sides.



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2.C.Pradeesh and N.Nandhini got married on 25.02.2018 at Gudalur, Theni District as per Hindu rites and customs. The matrimonial relationship came under strain. The husband (C.Pradeesh) filed H.M.O.P.No.151 of 2018 on the file of Sub Court, Uthamapalayam for declaration that the marriage between him and Nandhini is a nullity. This HMOP was subsequently transferred to Sub Court, Palani and renumbered as H.M.O.P.No.58 of 2019. Likewise, Nandhini filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 and it was numbered as H.M.O.P.No.1476 of 2018 on the file of Family Court, Coimbatore and it was transferred to Sub Court, Palani and renumbered as H.M.O.P.No.57 of 2019. Even during the pendency of the aforesaid HMOPs, the wife filed D.V.O.P.No.22 of 2020 before the Judicial Magistrate, Palani. In the DVOP, the wife sought various reliefs under the relevant provisions of the Protection of Women from Domestic Violence Act, 2005.

3.She examined herself as P.W.1. Exs.P1 to P11 were marked. The husband examined himself as R.W.1. Exs.R1 to R6 were marked. The learned trial magistrate vide order 02.08.2021 granted the following reliefs in favour of the wife:-



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(a) Protection order was granted under Section 18 of the Act.

(b) Rs.5,000/- per month was order to be paid by the husband under Section 19 of the Act (Residence order).

(c) The husband was directed to pay a sum of Rs.15,000/- per month towards maintenance.

(d) Compensation to the tune of Rs.15,00,000/- was order to be paid.

(d) Cost of Rs.10,000/- was also awarded.

4.Challenging the said order, the husband filed C.A.No.19 of 2021 before the Additional District and Sessions Court, Palani, Dindigul District. The appeal was partly allowed on 01.03.2024. The order passed by the trial Magistrate was modified. The protection order and residence order passed under Sections 18 and 19 the of Protection of Women from Domestic Violence Act, 2005 were set aside. The maintenance amount was reduced from Rs.15,000/- to Rs.10,000/- per month. The compensation amount was also restricted to Rs.10,00,000/-. Aggrieved by the fact that the appeal was not allowed in toto, the husband filed C.R.P.(MD)No.1205 of 2024. Aggrieved by the reduction in the amounts payable to her, the wife filed C.R.P.(MD)No.1564 of 2024.



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5.The learned counsel on either side reiterated all the grounds set out in the respective civil revision petition.

6.The learned counsel for the husband contended that the Courts below have not recorded any finding that the husband was guilty of any physical abuse and since domestic violence has not been established, the petition itself is not maintainable. He also would point out that some sort of compromise was arrived at between the parties and that the wife is going back on the same. It is further contended that the husband is not having any employment and that he has now recently enrolled himself as a lawyer. The stand of the husband is that if the impugned orders are not set aside, he will be burdened with unbearable financial hardship.

7.The learned counsel for the wife on the other hand submitted that the order passed by the trial Court deserves to be restored. It is further contended that the husband was guilty of emotional abuse and that therefore, the trial Court rightly awarded reliefs under various heads.

8.I carefully considered the rival contentions and went through the materials on record. It is not in dispute that the husband filed original petition



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seeking nullity of marriage. But he did not pursue the said remedy. Even though the learned counsel for the husband would claim that some kind of compromise was arrived at, there is nothing on record to show that only in view of the compromise, H.M.O.P. No.58 of 2019 was not pressed.

9.The fact remains that a valid marriage took place between the parties. It was the wife who sought the relief of restitution of conjugal rights. The husband did not file any petition for restitution of marriage. He filed only a petition for nullity. I, therefore, cannot fault the wife. It may be true that the husband was not guilty of any physical abuse or violence. But that would not mean that the wife cannot seek remedy under the provisions of Central Act No.43 of 2005. Even neglect and refusal to discharge the duties of husband can cause severe mental trauma and emotional distress to the wife. Section 30 of the Act specifically provides for award of compensation in case of emotional distress. I, therefore, hold that DVOP filed by the wife was very much maintainable.

10.The only question that calls for consideration is whether the order passed by the appellate Court is sustainable. It is true that when the marriage took place, the husband was employed in Infosys. The evidence on record



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indicates that the husband was earning a sum of Rs.45,000/- per month at Mysore. One can take judicial notice of the high cost of living in a city like Mysore. Therefore, a sum of Rs.45,000/- earned by the husband cannot be said to be a princely salary. It has been brought out in evidence that the husband has resigned the employment in 2021 itself. He is said to have taken up legal education. The learned counsel for the husband states that the husband has enrolled himself as a lawyer. The wife has not discharged her burden to show the financial background of the husband. Even according to the husband, he had spent a sum of Rs.20,00,000/- for marriage.

11.The first appellate Court took in account all the relevant aspects and made a slight modification in the order passed by the learned trial Magistrate. The statute provides only for a remedy of appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005. The jurisdiction available under Article 227 of the Constitution of India cannot be equated to a regular revisional jurisdiction or an appellate jurisdiction. Only if it is demonstrated that the first appellate Court had exercised its jurisdiction in a perverse manner, I would be justified in interfering with the same. Since the financial background of the husband has not been demonstrated by the wife, I am of the view that interference with the impugned order is not warranted.



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Pursuant to the condition imposed by this Court, the husband had deposited a sum of Rs.3,95,500/- before the trial Magistrate. The wife is at liberty to withdraw the same.

12.The civil revisions petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

- 1.The Additional District and Sessions Court,
Palani, Dindigul District.
- 2.The Judicial Magistrate Court,
Palani, Dindigul District.



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G.R.SWAMINATHAN, J.

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