



Crl.R.C.(MD).No.971 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	20.12.2023
Pronounced On	:	12.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.971 of 2022

and

Crl.M.P(MD).Nos.11947 of 2022 and 4846 of 2023

Thirupathi

... Petitioner

Vs.

Umamaheshwari

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records in Crl.A.No.27 of 2022 on the file of the learned Principal District Judge, Karur, dated 06.08.2022 modifying the order dated 08.11.2021 made in D.V.C.No.37 of 2020, on the file of the learned Additional Mahila Court/Judicial Magistrate, Karur and set aside the judgments of the Court below.

For Petitioner : Mr.K.Raghul Priyan

For Respondent : Ms.A.Arul Jenifer



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ORDER

The petitioner/husband of the respondent filed a petition before this Court to set aside the judgement passed in Crl.A.No.27 of 2022, on the file of the learned Principal District Judge, Karur, dated 06.08.2022, modifying the order dated 08.11.2021 made in D.V.C.No.37 of 2022, on the file of the learned Additional Mahila Judge/Judicial Magistrate, Karur.

2. The petitioner herein married the respondent on 09.02.2014. After the marriage, they lived in the joint family with the parents of the husband who is working as a Cashier in the Central Co-operative bank. At the time of marriage, 13 sovereigns of jewels and other house hold articles were given as dowry. It is alleged that the petitioner made harassment and also caused domestic violence to the respondent and also suspected the conduct of the respondent and he did not care about the child born on 01.05.2015. Hence the above conduct of the petitioner amounts to domestic violence and hence, the respondent filed a petition claiming various reliefs under the Domestic Violence Act.

3. The petitioner denied the allegation and also stated that H.M.O.P.No.137



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of 2015, is pending before the Sub-Court, the respondent is having sufficient

means to maintain her and she has not filed any proof of assets and liability as per the judgment of the Hon'ble Supreme Court in the case of ***Rajnesh Vs. Neha*** reported in ***(2021) 2 SCC 324***. Further, the respondent is not entitled for any relief. The learned trial Judge after considering the evidence and the records produced by both the parties granted relief under Sections 18, 19, 20 and 22 of the Domestic Violence Act and allowed the entire relief claimed by the respondent. Aggrieved over the same, the petitioner filed an appeal before the Principal District Court, Karur on Crl.A.No.27 of 2022. The learned appellate Judge also confirmed the finding of the learned trial Judge, that the petitioner caused domestic violence to the respondent/wife and he confirmed the relief granted by the learned trial Judge except the return of jewels and household articles and he reduced the compensation granted under Section 22 of the Domestic Violence Act, from a sum of Rs.1,00,000/- to Rs.50,000/-. Challenging the order passed by both the Courts below, the petitioner filed this Criminal Revision Case.

4.The learned counsel for the petitioner submitted that both the Courts below committed error in granting relief without order of the social welfare officer. They did not obtain any report from the local police officer. Further, no



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independent witness was examined for the alleged domestic violence as alleged

by the respondent. The allegation that the petitioner assaulted the respondent is not correct and the same was not proved and no medical certificate was produced. Further, the respondent has sufficient means and hence, the claim of the maintenance is not legally sustainable. The assets of the respondent has not been disclosed in the petition as required as per the order of the Hon'ble Supreme Court, in the case of **Rajnish Vs. Neha** reported in **(2021) 2 SCC 324** in the said circumstances, both the Courts below committed error and granted relief without any proof of ingredients of the Domestic Violence Act and hence, he seeks to set aside the order passed by both the Courts below.

5.The learned counsel for the respondent submitted that the proper domestic violence report was furnished and on the basis of the report, the proceeding was initiated and the compensation and other relief also granted. For which, he relied on the documents in the typed set of papers. The petitioner is a bank employee and hence he has sufficient means to pay maintenance to the respondents. The respondent and her child are entitled to get maintenance and other relief from the petitioner. The learned counsel for the respondent also stated that the petitioner has not produced any evidence to prove the income of the respondents. The Hon'ble Supreme Court in the case of **Rajnish Vs. Neha**



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reported in **(2021) 2 SCC 324** has directed to furnish the details of the affidavit

only in the case of maintenance filed under Section 125 of Cr.P.C. In this case, the petitioner filed petition claiming other reliefs. The said non-compliance is not a ground to decline the relief under the Domestic Violence Act.

6.This Court has considered the rival submissions and perused the materials available on record and the precedents relied upon by them.

7.In this case, the Social Welfare Officer submitted a report on 29.06.2016, and in the report, he specifically held that there was domestic violence and the respondent has suffered a lot at the hands of the petitioner. On the basis of the domestic violence petition, the learned Judicial Magistrate, conducted enquiry and after giving opportunity to both the parties the learned Judicial Magistrate granted a relief of restraining the petitioner from causing any domestic violence against the respondent and her child.

8.As per the Act, the wife is entitled for shared household either in the house or equivalent rent. Therefore, the learned trial Judge, correctly ordered and granted a sum of Rs.3,000/-. Further the learned trial Judge granted the maintenance of Rs.7,500/- to the respondent and her child (ie., Rs.5,000/- to the



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wife and Rs.2,500/- to the child).

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9.Further, the learned trial Judge, also directed the husband to hand over three sovereigns of jewels under Section 22 of the Act. Considering the domestic violence caused by the petitioner he granted compensation of Rs.1,00,000/-. The learned appellate court, only in respect of the return of jewels dismissed the claim and reduced the compensation amount from Rs.1,00,000/- to Rs.50,000/-. There was no challenge for the said aspect and hence, this Court finds that both the Courts below correctly appreciated the evidence and also the records, granted the relief in accordant with law.

10.In view of the above circumstances, the submission of the learned counsel for the petitioner that both the Courts below without obtaining any report from the Social Welfare Officer passed orders, is not correct.

11.The report of the social welfare officer is not necessary. But, in this case, the report is available on records. The learned counsel for the petitioner submitted that the respondent has sufficient means, but no evidence was adduced on the side of the petitioner to prove the income source of the respondent. Therefore, the affidavit of disclosure of assets and liability as laid down in



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Rajnesh's case, is not necessary in this case. The petitioner filed for relief under

various heads of the Domestic Violence Act. Further, non-filing of the assets will not disentitle the relief claimed under the Domestic Violence Act. There was a serious allegation of the Domestic Violence against the petitioner and the same was properly appreciated by the learned trial Judge and the learned appellate Judge and the relief was granted by holding that domestic violence was committed by the petitioner. In the said circumstances, this Court finds no merit in this criminal revision case.

12. Accordingly, this Criminal Revision Case stands dismissed by confirming the order passed by the learned Principal District Judge, Karur, dated 06.08.2022 in C.A.No.27 of 2022. Consequently, connected miscellaneous petitions are closed.

12.03.2024

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

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To

1. The learned Principal District Judge, Karur.
2. The learned Additional Mahila Court/Judicial Magistrate, Karur.



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K.K.RAMAKRISHNAN, J.
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Pre-delivery Order made in
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