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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 17^h December, 2024***

+ **CRL.M.C. 1222/2022**

SATYAVOL VENKAT RAMA

KRISHNA RAO

.....Petitioner

Through: Ms. Shweta Bari, Adv.

versus

KAVITA RAO

.....Respondent

Through: Ms. Astha Deep, Adv.
(through VC)

+ **CRL.M.C. 1247/2022**

SATYAVOL VENKAT RAMA

KRISHNA RAO

.....Petitioner

Through: Ms. Shweta Bari, Adv.

versus

KAVITA RAO

.....Respondent

Through: Ms. Astha Deep, Adv.
(through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petitions are filed assailing the common judgement dated 23.10.2021 (hereafter '**impugned common judgement dated 23.10.2021**') passed by the learned Additional Sessions Judge, ('**ASJ**') Karkardooma Courts, Delhi in Criminal Appeal No. 133/2019 and Criminal Appeal No. 109/2019.

2. By the impugned common judgement dated 23.10.2021, the learned ASJ dismissed the Criminal Appeal No. 109/2019

filed by the petitioner husband and allowed Criminal Appeal No. 133/2019 filed by the respondent wife, modifying the judgement dated 22.04.2019 (hereafter '**impugned judgement dated 22.04.2019**') passed by the learned Metropolitan Magistrate ('MM'), Karkardooma Courts, Delhi in Case No. 60510/2016.

3. The learned MM, in Case No. 60510/2016 filed by the respondent wife under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereafter '**DV Act**'), *vide* its impugned judgement dated 22.04.2019, directed the petitioner husband to pay a sum of ₹12,000/- as maintenance to the respondent wife for the expenses incurred by her in raising the minor child, till he attained majority and to cater to his developmental needs and also granted her relief of residence in property bearing No. A-15, First Floor, Priyadarshni Vihar, New Delhi (hereafter '**shared premises**'), along with other consequential reliefs.

4. Dissatisfied with this award, the petitioner husband filed Criminal Appeal No. 109/2019 seeking to set aside the impugned judgement dated 22.04.2019 and the respondent wife filed Criminal Appeal No. 133/2019 seeking enhancement, leading to the impugned common judgement dated 23.10.2021 passed by the learned ASJ.

5. The learned ASJ awarded the following reliefs to the respondent wife:

5.1. Maintenance for the child, who by now has attained the age of majority, to the tune of ₹25,000/- per month, from the date filing of the petition, till the said child completes his

graduation/ Engineering or starts earning, whichever is earlier.

5.2. Compensation of ₹10,00,000/-.

5.3. Relief of residence along with certain directions to secure the future right of residence of the respondent wife, in the event the shared premises is sold by the petitioner husband to a suitable buyer as well as to secure her right of lien on the shared premises.

6. The learned counsel for petitioner husband submits that the impugned common judgement dated 23.10.2021 passed by the learned ASJ is *ex-facie* perverse and harsh and was passed without appreciating the fact that no case of domestic violence has been made out against the petitioner husband in the evidence placed before it.

7. She submits that the respondent/wife is not entitled to the reliefs in the nature of enhanced maintenance for the child, compensation or consequential reliefs, arguing that the learned ASJ could not have granted reliefs which were not specifically prayed for in the petition and that the financial burden imposed is unsustainable.

8. She submits that the maintenance of a son beyond the age of majority is in itself, contrary to law.

9. She submits that the learned ASJ failed to appreciate that it was not only the responsibility of the father, but also of the mother, to maintain her minor child, considering her earning capacity.

10. She submits that the complaint under section 12 of the DV

Act has been filed by the respondent wife as a counterblast to the divorce petition filed by the petitioner husband, of which notice was served in 2008.

11. *Per Contra*, the learned counsel for the respondent/wife submits that the application under Section 12 of the DV Act was filed by the respondent wife pursuant to the orders/ judgements passed by the DRT, DRAT and this Hon'ble Court in regard to the shared premises. She submits that the petitioner husband has failed to provide for her and her minor child, and has exploited her physically, emotionally and financially.

12. She submits that the petitioner husband quit his job and thereafter made several demands for money from the respondent wife and her family members. It is submitted that the father of the respondent wife had previously arranged a loan of ₹3,00,000/- in favour of the petitioner husband and thereafter was constrained to transfer his self-constructed property, that is, the shared premises bearing No. A-15, First Floor, Priyadarshni Vihar, New Delhi, in favour of the petitioner husband *vide* Sale Deed dated 14.10.2005, for a meagre consideration amount of ₹10,00,000/-, which he intended to transfer in favour of the respondent wife.

13. She submits that the shared premises was mortgaged by the petitioner husband with HDFC Bank for which the respondent wife had approached DRT and DRAT for saving the same from attachment, whereafter *vide* the consent order dated 13.02.2012 passed by this Court in WP No. 6734/2011, it was agreed that another property bearing No. Flat No.T-14, Second

Floor, Eldeco Green Apartments, Greater Noida, jointly owned by the parties would be sold and the proceeds thereof would be used to partially liquidate the liability of the HDFC Bank. It is submitted that the remaining liability was liquidated by the respondent wife from her own resources.

14. She submits that the complaint already records the apprehension of the respondent wife, regarding the sale of the subject premises, by the petitioner husband, and states that the reliefs granted by the learned ASJ are not beyond the scope of pleadings.

15. She further submits that the present petition is a mere attempt to delay the execution of the proceedings.

16. The impugned orders have come to be passed, after appreciation of the Domestic Incident Report and holding the respondent wife to be an 'aggrieved person' in terms of Protection of Women from Domestic Violence Act, 2005 (**DV Act**) and the subject premises being the 'shared household' as defined under the DV Act.

17. The ASJ observed that the respondent wife while doing a job, wherein she was earning about ₹6.5 lakhs to ₹7 lakhs per year, had single headedly brought up her minor child and taken care of his day-to-day requirements towards his education, clothing, food, shelter and status. Moreover, she has run pillar to post in order to save the shared premises which was mortgaged by the petitioner husband with the bank.

18. The petitioner husband has though denied any violence, however, from the perusal of the record, it is evident that he

played little role in supporting and providing for his wife and minor child, rather he has made it only more difficult for them to sustain. The same led to the Courts below awarding the maintenance as mentioned above.

19. It is trite law that not providing any maintenance to the wife is a form of 'economic abuse' under the DV Act, Section 3(iv) defines economic abuse as:

“economic abuse” includes—
(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;
(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and
(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.”

20. A coordinate bench of this court in **Ajay Kumar v. Uma:** **2024:DHC:80** made observation regarding the scope of the word 'Domestic Violence', the same has been reproduced below:

“The ‘domestic relationship’ between the petitioner and complainant is not disputed. ‘Domestic violence’ may be by physical harm or injury endangering the health safety, life, limb, or ‘well being’ which may be mental or physical of ‘aggrieved person’. Further the same includes physical, sexual, verbal, ‘emotional’ and ‘economic’ abuse. The object of the Act is to provide for more effective provisions to

safeguard the rights of the women who are victims of violence of any kind occurring within the family, and for matters connected therewith or incidentally thereof.”

21. The learned ASJ *prima facie* assessed the monthly income of the petitioner husband to be not less ₹1,25,000/- per month, based on his rental and miscellaneous expenses, and directed him to pay ₹25,000/- per month as maintenance for the child, from the date of filing of the petition till the said child completed his graduation/ Engineering or started earning, whichever is earlier.

22. The maintenance of ₹25,000/- has been awarded while assessing the monthly income of the petitioner husband to be not less than ₹1,25,000/- per month. The petitioner husband has not challenged the assessment of his income by the Courts below but has challenged the impugned order, contending that the amount awarded is on the higher side.

23. The purpose of maintenance is to ensure the financial sustenance of the dependent spouse or child, while balancing the earning capacity of the abled party. Maintenance is not merely for survival but is aimed at ensuring a dignified existence, consistent with the standard of living enjoyed during the subsistence of the marriage.

24. The learned ASJ rightly noted that the child will be completing his graduation/ Engineering till he turns 22-23 years of age and therefore he cannot be expected to start earning immediately after attaining the age of majority, to shoulder the burden of expenses on his education, travel, food, clothing, etc. The Hon'ble Apex Court in a number of cases, has upheld and allowed the arrangement to provide maintenance to the son, even

after the age of majority has been attained by him, as per facts and circumstances of the case. [Ref: ***Chandrashekhar v Swapnil, Criminal Appeal Nos. 265-266 of 2021; Rita Dutta v Subendhu Datta, (2005) 6 SCC 619***]

25. The learned ASJ *vide* the impugned common judgement dated 23.10.2021 proportionately granted compensation to the tune of ₹10,00,000/- for expenses incurred by the respondent wife for the efforts made by her to protect the shared premises and litigation expenses incurred for the proceedings before the DRT, DRAT and the Hon'ble High Court as well as for bringing up the minor child by herself, while simultaneously earning bread. It is settled law that the Court can grant monetary relief and/or compensation in terms of Sections 20 and 22 of the DV Act, at the stage of final disposal of the case, while taking in consideration, all evidence placed before it.

26. The learned ASJ has further granted relief of residence to the petitioner, with respect to the shared premises, as the fact that the same is the shared household of the respondent wife, has not been disproved by the petitioner husband. The learned ASJ appropriately observed that the learned MM, while allowing the petitioner husband to sell the shared premises to a suitable buyer in order to execute the right of lien of the respondent wife, failed to consider the future right of residence of the respondent wife and in what manner the residence order will be implemented after the sale of the subject premises. The directions passed by the learned ASJ in order to protect the lien and right of residence need not be interfered with and are in consonance with the

provision of Section 19 of the DV Act, by which the Court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

27. Furthermore, it is relevant to note that the reliefs under the DV Act can be granted if the complaint *prima facie* discloses that the respondent has committed an act of domestic violence. Any woman who proves that she has suffered domestic violence at the hands of her spouse/ partner, is entitled for such relief. In the present case, both the learned Trial Court as well as the learned ASJ has explicitly recorded that *prima facie* it appears from the complaint that the respondent was subjected to domestic violence.

28. Considering the facts as noted by the learned ASJ as well as the learned MM, this Court is of the opinion that the claims of the petitioner husband that it was not only the responsibility of the father, but also of the mother to maintain the minor child considering her earning capacity, are devoid of any merit. The duty of the husband to provide for his child persists regardless of any purported grievances. It is trite that mere potential of the wife to provide for the child, is not sufficient to exempt the petitioner/husband, who is an able-bodied man, from financially supporting his child.

29. The learned counsel for the petitioner husband submits that in compliance with this Court's order dated 17.05.2024, the petitioner/ husband has paid a sum of ₹5,00,000/- to the

respondent/ wife, however no proof of the same has been placed on record as yet.

30. In view of the above, this Court finds no reason to interfere with the impugned judgements, and the petitions are dismissed in the aforesaid terms.

31. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

DECEMBER 17, 2024