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CRP.No.428 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:18.11.2025

Pronounced on:28.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.428 of 2025
and CMP. Nos.17462 & 2598 of 2025**

S.Bakthavatchalu

Petitioner(s)

Vs

Vasuki

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment dated 29.10.2024 passed in Crl.A. No.228 of 2023 by the learned XVIII Additional City Civil Judge, Chennai confirming the order dated 30.08.2022 by the learned Additional Mahila, Magisterial Level, Egmore, Chennai in DVC No.259 of 2017.

For Petitioner : Mr.M.V.Seshachari

For Respondent : Mrs.Inthu Karunakaran

ORDER

The husband aggrieved by the order passed in DVC No.259 of 2017 directing payment of maintenance of Rs.10,000/- per month, which order came to be confirmed in Crl.A. No.228 of 2013, is the revision petitioner.



2. I have heard Mr.M.V.Seshachari, learned counsel for the petitioner and Mrs.Inthu Karunakaran, learned counsel for the respondent.

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3. Mr.M.V.Seshachari, learned counsel for the petitioner would submit that the respondent/wife had initiated domestic violence proceedings before the learned Additional Mahila Court, Egmore in DVC. No.259 of 2017, not only against the revision petitioner but also against his two sisters. Though the allegations were found to be not proved and the Magistrate, proceeding to dismiss all other reliefs sought for by the respondent/wife, the Magistrate has erroneously proceeded to award maintenance of Rs.10,000/- in favour of the respondent/wife. He would further state that the Appellate Court also has erroneously confirmed the said order, without taking into consideration the several contentions that were advanced by the revision petitioner.

4. Mr.M.V.Seshachari, learned counsel for the petitioner would submit that both the petitioner and the respondent admittedly being husband and wife are aged 75 and 77 respectively, the wife being two years elder to the husband. They are blessed with two sons who were reasonably well settled in life, one having been born in 1984 and the other being born in 1987. Admittedly, the respondent/wife was working in the Department of



Economic and Statistic and post retirement, the wife is getting substantial pension. Mr.M.V.Seshachari, learned counsel for the petitioner/husband would further state that the husband also retired from BSNL and he is also entitled to pension, but however, the respondent is getting a higher pension amount than the petitioner. He would also point out that the petitioner had to suffer an open-heart bypass surgery and has been finding it difficult to be make both ends meet. He would further contend that the sons are taking good care of the respondent and there was absolutely no necessity for the Courts below to award maintenance of Rs.10,000/- per month.

5. As regards the reference to the voluntary payment of Rs.10,000/- being made by the petitioner Mr.M.V.Seshachari, would contend that was a period when the second petitioner was studying and only in order to support his education, the amount was being paid to the respondent and not towards maintenance of the respondent/wife. She also owns immovable property from which substantial rental income is also accruing from the petitioner. Mr.M.V.Seshachari, learned counsel for the petitioner would also take me through the bank statements with regard to the income and expenditure of the parties to fortify his contentions that the respondent is leading a lavish lifestyle and she does not require any maintenance amount and he would therefore pray for the revision being allowed. He would rely on the



following two judgments in support of his contentions:

(i) *Ashok Subramaniam Vs. C.Srividhya*, reported in 2018 SCC

Online Mad 14355; and

(ii) *Hari Har Raj Kalingarayar Vs. Aarti and Another*, reported in 2018 SCC *Online Mad 13815*.

6. Per contra, Mrs.Inthu Karunakaran, learned counsel for the respondent/wife would submit that it is not a case where maintenance has been ordered in matrimonial proceedings, but it is an award of maintenance in Domestic Violence Proceedings under Section 20 of the Protection of Women from Domestic Violence Act, 2005 (in short 'Act'). She would therefore contend that the arguments advanced by the learned counsel for the petitioner are totally misplaced and have no bearing insofar as the maintenance awarded in the proceedings initiated alleging domestic violence. The learned counsel would also state that the wife has not filed any application seeking interim maintenance before the Family Court and excepting in the DVC complaint, the respondent has not sought for any maintenance from the petitioner.

7. The learned counsel would further state that after marriage, the petitioner has purchased an immovable property and since the petitioner and



the respondent were living happily at that point of time, the entire income of the respondent was at the disposal of the petitioner and he has also purchased an immovable property and has even chose to settle the property in favour of his sisters, only in order to deprive the respondent of any benefit despite her invaluable contribution which went into the purchase of the property. He would further state that the amount of Rs.10,000/- is bare minimum and admittedly, the Courts have taken note of the fact that the petitioner himself had admitted to have been paying a sum of Rs.10,000/- for quite a long period of time and therefore, that has been weighed in the mind of the Courts to award maintenance amount of Rs.10,000/-.

8. As regards, the argument of Mr.M.V.Seshachari, learned counsel for the petitioner, she would take me through the relevant admission of the petitioner where the petitioner clearly states that the amount of Rs.10,000/- has been paid voluntarily only for the maintenance of the respondent and it has not been the case of the petitioner that it was paid to meet educational expenses of the second son. She would therefore states that no interference is warranted and the concurrent orders passed by the Magistrate and confirmed by the XVIII Additional City Civil Court, Chennai.



9. I have carefully considered the submissions advanced on either side and orders passed by Additional Mahila Judge as well as the learned Judge, XVIII Additional City Civil Court, Chennai.

10. The petitioner and the respondent were married to each other on 26.10.1979 and admittedly, they are blessed with two sons. Both the husband and wife have been gainfully employed, the wife being employed with the Government as in the Department of Economics and Statistics and the husband being employed with BSNL. It is also an admitted fact that after retirement, both the petitioner and the respondent are getting pension. As rightly contended by the learned counsel for the respondent, the maintenance awarded in the present case is not under 24 of the Hindu Marriage Act, 1955 or under Section 125 Cr.P.C. It has been awarded under Section 20 of the Act.

11. The Domestic Violence Complaint came to be filed by the respondent seeking reliefs under Sections 12 (2), 18(1) (b), (d), (e), (f), 19(a), (b), (d), (e), 20 and 22 of the Act:-

12. Application to Magistrate.— (1).....

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

....



18. Protection orders.—*The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from—*

- (a) committing any act of domestic violence;*
- (b) aiding or abetting in the commission of acts of domestic violence;*
- (c).....*
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;*
- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;*
- (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;*

....

19. Residence orders.—*(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—*

- (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;*
- (b) directing the respondent to remove himself from the shared household;*
- (c)*
- (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;*
- (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or*

.....

20. Monetary reliefs.—*(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,—*

- (a) the loss of earnings;*
- (b) the medical expenses;*
- (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and*
- (d) the maintenance for the aggrieved person as well as her*



children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

...

22. Compensation orders.—*In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent."*

12. The respondent alleged various cruelties inflicted on her by the petitioner and besides seeking protection orders under Section 18, also sought for orders under Section 19 to avoid harassment and interference with the peaceful enjoyment of the house by the respondent. Monetary relief of Rs.50,000/- towards damages was sought under Section 20 and 22, a sum of Rs.1,00,000/- was claimed for mental, physical and emotionally torture and cruelty alleged to have been caused by the petitioner.



13. The learned Magistrate by order dated 30.08.2022, rejected the allegations of domestic violence against all the accused viz., the petitioner and his sisters. The Magistrate also rejected a need for residence order or protection order as prayed for by the respondent. However, finding that it is the duty of the respondent to maintain her wife and considering the pension amount of the petitioner, the Magistrate proceeded to award a sum of Rs.10,000/- to be paid as monthly maintenance to the respondent, giving liberty to the respondent to have the said order enforced under Section 19(7) and 20(4) of the DV Act. This order was taken up on appeal before the Principal Sessions Court and on transfer of the Criminal Appeal in CrI.A.No.228 of 2025 to its file, the 18th Additional City Civil Court, Chennai confirmed the order passed by the Additional Mahila Court, finding that no interference is warranted in the said order.

14. The scope of awarding monetary relief under Section 20 of the Act is to ensure that the respondent has to meet the expenses incurred and losses suffered by the aggrieved person as a result of domestic violence, therefore, before awarding any monetary relief invoking Section 20 of the Act, it has to be preceded by a finding that the aggrieved party viz., wife in the present case, has suffered domestic violence, at the hands of petitioner/husband. Only in the event of the case of domestic violence



being made out, the wife can be eligible to any monetary relief which includes loss of earnings, medical expenses, loss caused due to destruction, damage or removal of any property from the control of the wife and maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under Section 125 of Cr.P.C or any other law for the time being in force. Therefore, Section 20(1)(d) of the Act, no doubt entitles the respondent/wife for maintenance and the said maintenance can also be in addition to any maintenance awarded by the Magistrate under Section 125 Cr.P.C.

15. In my considered view, unless, the Magistrate comes to a conclusion that the wife is aggrieved by domestic violence inflicted by the husband on her, there cannot be any award of monetary relief under Sub Sections 1(a) to (d). In fact, Section 20(2) states that the monetary reliefs granted under Section 20, shall be adequate fair and reasonable and consistent with the standard of living, to which the aggrieved party is accustomed and under Sub Section 3, the Magistrate also has a power to appropriate lump sum payments or payments monthly as the particular facts of the case may require. As already discussed, the petitioner, respondent/wife has not sought for any maintenance to sustain herself, invoking Section 20(1)(d) of the Act in the first place. The petitioner



claimed only a sum of Rs.50,000/- per month under Section 20 of the Act.

Even assuming the petitioner is entitled to seek maintenance, dehors the rejection of other reliefs sought for by her in the domestic violence complaint, even then Sub Section 2 of Section 20 of the Act, requires the Magistrate to consider the quantum that the wife is entitled to depending on relevant factors.

16. In the present case, admittedly, the respondent has been earning pension of about Rs.33,080/- even in the year 2017 and according to the petitioner, the wife now earns not less than Rs.40,000/- per month and it is also the specific contention of the petitioner that the respondent owns immovable properties which fetch additional income by way of rents to the tune of more than Rs.25,000/- per month. It is also the contention of the husband that the sons who are major, supporting their mother/respondent herein and they are earning handsomely. In contrast, the petitioner/husband is getting a pension of Rs.41,000/- and does not have any other source of income. He has also pleaded that he underwent an open-heart surgery in 2013 and has been under continuous medical care and attention and that even the expenses for the surgery were covered only by the Insurance claim. It is also seen that the sons have filed a suit for partition against the petitioner claiming share in the family property of the petitioner.



17. Though the petitioner filed HMOP. No.1679 of 2016 seeking divorce on the ground cruelty and desertion, the same came to be dismissed and the petitioner has challenged the dismissal of the divorce petition and CMA No.2273 of 2023, which is pending before this Court. It is also brought to my notice by Mr.M.V.Seshachari, that pending the HMOP for divorce, the respondent filed an application for interim maintenance in I.A. No.45 of 2018, however, the said application came to be dismissed on merits by a well considered order dated 04.11.2019, holding that the petitioner is a pensioner and has sufficient income to maintain herself. Though it has been vehemently contended by the learned counsel for the respondent that the wife also has to take care of her aged mother, it is seen that the respondent is not the only child of her mother and apart from the respondent, there are two sons and two daughters who are getting substantial pension and income from business and one of them is a practicing Advocate. Therefore, I do not see how the respondent can claim maintenance under Section 20 of the DV Act, to maintain her mother. The claims in this regard have to be therefore rejected even at the threshold.

18. No doubt, the petitioner has been paying a sum of Rs.10,000/- from June 2006 to June 2013. However, such voluntary payment of maintenance has not been reason to award interim maintenance by the



Family Court which has dismissed in I.A. No.45 of 2018 by order dated 04.11.2019, finding that the respondent is capable of maintaining herself.

Even from the statement of income and expenditure, I find that the respondent/wife has been regularly getting pension from the Government and that apart, the respondent has been in habit of buying new sarees every month spending atleast Rs.12,000/- or Rs.24,000/- for such purchase of sarees, that too, all sarees from Chennai Silks, a popular showroom in Chennai City. The respondent, at the age of 77 who is able to spend such lavish amounts for new sarees, cannot shed crocodile tears that she is unable to maintain herself and therefore, the husband has to pay her maintenance every month.

19. The Hon'ble Division Bench of this Court, in the case of *Ashok Subramaniam* (referred herein supra), has held that while determining a claim of maintenance, the Court is required to examine the resourcefulness, wherewithal or financial capacity of the wife or the husband, as the case may be and maintenance cannot be awarded mechanically, without examining the financial capacity of the parties and if it is brought to the notice of the Court, either by way of employment or otherwise, the party seeking maintenance is financially capable of maintaining himself or herself, then the Court is to restrain itself from awarding maintenance.



20. Yet another contention that was argued by Mr.M.V.Seshachari, learned counsel for the petitioner is that the DVC proceedings were originally filed in the year 2016 before V Metropolitan Magistrate Court, Egmore and subsequently, transferred to the file of the Additional Mahila Court, Egmore. No notice for transfer was given to the petitioner and therefore, there was no opportunity given to the petitioner/husband to even contest the DVC proceedings and despite the same, the Magistrate has rejected all prayers for protection of residence orders. He would also state that despite the non service of notice being raised as a ground in the appeal, the Sessions Judge has also not considered the same. However now that the revision has been elaborately argued and I have also discussed the respective contentions of both the parties, I do not see any serious prejudice being caused to the petitioner because of non-service of notice, subsequent to transfer of the DVC Proceedings. Having already come to the conclusion that the respondent is getting substantial pension and does not require any maintenance to sustain herself, she is not entitled to any monetary relief under Section 20 of the Act. In view of the above, I am inclined to set aside the Judgment dated 29.10.2024 passed in Crl.A. No.228 of 2023 by XVIII Additional City Civil Judge, Chennai confirming the order dated 30.08.2022 by the learned Additional Mahila Judge, Egmore.



21. CMP. No.17462 of 2025 has been filed for withdraw amount deposited by the revision petitioner, pursuant to conditional order passed by this Court for granting stay at the time of the admission of CRP. In the light of the above conclusions and findings that the respondent is not entitled to any maintenance, the question of payment out does not arise. CMP is dismissed. The petitioner is at liberty to withdraw the said sum deposited by him before this Court in compliance with the order dated 24.02.2025 (earlier order dated 14.02.2025).

22. In fine, Civil Revision Petition is allowed. CMP. No.17642 of 2025 is dismissed with the above direction and CMP. No.2598 of 2025 is closed. No costs.

28.11.2025

rkp

Index : Yes

Internet : Yes

To:

1. The XVIII Additional City Civil Judge,
Chennai.

2. The Additional Mahila, Magisterial Level,
Egmore, Chennai.



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CRP.No.428 of 2025



P.B.BALAJI, J.,

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Pre-delivery order in
CRP. No.428 of 2025
and CMP. Nos.17462 & 2598 of 2025

28.11.2025