



Crl.R.C.(MD)No.98 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.04.2025

Delivered on : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.98 of 2019

and

C.M.P(MD)No.1881 of 2019

1.J.Michael Alto Bebin

2.J.Subahar

: Petitioners

Vs.

R.Hebsibai Kavitha

: Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C, to call for the records pertaining to the order passed by the learned Principal Sessions Judge, Nagercoil, Kanyakumari District in C.A.No.12 of 2016, dated 14.12.2018 as well as the order passed by the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District in Cr.M.P.No.1577 of 2011, dated 06.08.2014 and set aside the same.

For Petitioner : Mr.R.Anand

For Respondents : Mr.M.P.Senthil

for Mr.S.Jebastin



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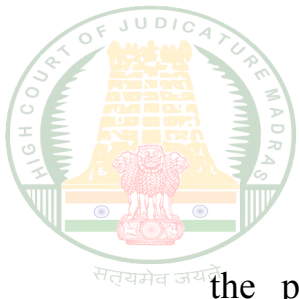
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ORDER

The Criminal Revision is directed against the order passed in C.A.No.12 of 2016, dated 14.12.2018 on the file of the Principal District and Sessions Court, Nagercoil, Kanyakumari District, confirming the order made in Cr.M.P.No.1577 of 2011, dated 06.08.2014 on the file of Court of the Judicial Magistrate No.II, Nagercoil.

2. It is not in dispute that the marriage between the first petitioner and the respondent was solemnized on 27.11.2006 at Thirukudumba Alayam, Ramanpudur, Nagercoil and due to their wedlock, they were blessed with a male child, born on 18.12.2008 and that subsequently, there arose some misunderstanding and issues between the parties and are living separately.

3. The respondent, alleging domestic violence against the first petitioner, his mother and brother/second petitioner, has filed a petition under Section 12(1) of Protection of Women from Domestic Violence Act, claiming the reliefs of protection order under Section 18 of the said Act and for return of cash of Rs.2 lakhs and the jewels, order restraining



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the petitioners from taking their child and for awarding monthly maintenance at Rs.10,000/-. The petitioners have filed the counter statement disputing the respondent's averments and raising objections to grant the reliefs.

4.During enquiry, the respondent examined herself as P.W.1 and exhibited 13 documents as Ex.P.1 to Ex.P.13. Since the petitioners and others have not taken part in the enquiry, the learned Magistrate has proceeded ex-parte and passed an order, dated 06.08.2014 allowing the petition filed by the respondent. Challenging the said order, dated 06.08.2014, the petitioner, his mother and brother have filed an appeal in C.A.No.12 of 2016 and the learned Principal Sessions Judge, since the appellants have not turned up for advancing their arguments, upon considering the evidences available on record and on hearing the arguments of the respondent side, has passed the impugned order, dated 14.12.2018, dismissing the appeal and thereby confirming the order passed by the learned Judicial Magistrate. Challenging the dismissal of appeal, the appellants 1 and 3 have filed the present Criminal Revision.



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5.The main contention of the revision petitioners is that much prior to the disposal of DVC complaint, the respondent had obtained divorce from the first petitioner in IDOP No.119 of 2010 vide judgment, dated 22.10.2010 on the file of the I Additional District Judge, Tirunelveli; that since the respondent is a divorced wife, she cannot come within definition of victim as embodied in the said Act and that therefore, the very initiation of the proceedings under the Domestic Violence Act stands vitiated.

6. It is the further contention of the revisions petitioners that the parties have entered into compromise in which, the respondent has agreed to the terms and as a result of which, the respondent has also received a sum of Rs.1,00,000/- as permanent alimony, which ha been paid through a demand draft, dated 27.03.2012; that the respondent after assuring that she would not claim any maintenance for herself and her child, she has been given with the custody of the child; that there is no subsistence of cause of action available for prosecuting the complaint in view of the compromise entered into between the parties and that therefore, the Courts below erred in passing the orders now under challenge.



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7.It is evident from the records that the revision petitioners have taken a stand before the appellate Court also that after getting divorce order, the respondent has no right to invoke the provision under the Domestic Violence Act and the learned Sessions Judge by referring the judgment of the Hon'ble Supreme Court in the case of ***V.D.Bhanot Vs. Savita Bhanot*** reported in ***(2012) 3 SCC 183***, has observed that the divorced wife can also file a complaint under Section 12 of the Protection of Women from Domestic Violence Act. The Hon'ble Supreme Court in the case of ***Juveria Abdul Majid Patni Vs. Atif Iqbal Mansoori and another*** in ***Crl.A.No.2069 of 2014***, has specifically held that 'an act of domestic violence once committed, subsequent decree of divorce will not absolve the liability of the respondent from the offence committed or to deny the benefit to which the aggrieved person is entitled under the Domestic Violence Act, 2005 including monetary relief under Section 20, Child Custody under Section 21, Compensation under Section 22 and interim or ex-parte order under Section 23 of the Domestic Violence Act, 2005.'



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8. Considering the legal position above referred, the contention of the revision petitioners that the divorced wife cannot invoke the provisions of DVC Act cannot be sustained.

9. Now turning to the second contention with regard to the compromise entered into between the parties, the petitioner has not produced any iota of materials either before the learned Magistrate or before the appellate Court or even before this Court.

10. It is pertinent to note that the learned Principal Sessions Judge in the impugned order has specifically observed that though the appeal was pending for nearly two years, the appellants have not chosen to proceed with the arguments and despite granting sufficient opportunities, they have not proceeded with the appeal. Except the above grounds, the petitioners have not canvassed any other valid reason or ground to impugn the orders passed by the Courts below. Hence, this Court concludes that the Criminal Revision is devoid of merits and the same is liable to be dismissed.



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11. In the result, this Criminal Revision case is dismissed.

Consequently, connected Miscellaneous Petition is closed.

04.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Principal Sessions Judge,
Nagercoil, Kanyakumari District.
- 2.The Judicial Magistrate No.II,
Nagercoil, Kanyakumari District.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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and
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Dated: 04.08.2025