



*Crl.R.C.(MD)No.812 of 2022
and CMSA(MD)Nos.23 & 20 of 2022*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.02.2025

Delivered on : 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.812 of 2022
and
C.M.S.A(MD)Nos.23 and 24 of 2022
and
Crl.M.P(MD)N0.10074 of 2022

Crl.R.C.(MD)No.812 of 2022 :

Karthick : Petitioner

Vs.

Rajeshwari : Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records pertaining to the judgment, dated 06.08.2022 made in C.A.No.43 of 2021 on the file of the I Additional District and Sessions Judge, Tirunelveli, partly modifying the judgment, dated 05.03.2021 passed in D.V.C.No.10 of 2016 on the file of the learned Judicial Magistrate No.V, Tirunelveli and set aside the same.

For Petitioner : Mr.S.Srinivasa Raghavan,
for Mr.P.Samuel Gunasingh.

For Respondent : Mr.H.Arumugam



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WEB COPY C.M.S.A(MD)No.23 of 2022 :

Karthick

: Appellant

Vs.

Rajeshwari

: Respondent

PRAYER : Civil Miscellaneous Second Appeal filed under Section 28(1) of Hindu Marriage Act r/w Section 100 of C.P.C., to set aside the judgment and decreetal order, dated 05.04.2022 made in H.M.C.M.A.No.16 of 2021 on the file of the learned I Additional District Judge, Tirunelveli, confirming the fair and decreetal order, dated 20.07.2021 made in H.M.O.P.No.9 of 2017 on the file of the learned Additional Subordinate Judge, Tirunelveli.

C.M.S.A(MD)No.24 of 2022 :

Karthick

: Appellant

Vs.

Rajeshwari

: Respondent

PRAYER : Civil Miscellaneous Second Appeal filed under Section 28(1) of Hindu Marriage Act r/w Section 100 of C.P.C., to set aside the judgment and decreetal order, dated 05.04.2022 made in H.M.C.M.A.No.15 of 2021 on the file of the learned I Additional District Judge, Tirunelveli, confirming the fair and decreetal order, dated 20.07.2021 made in H.M.O.P.No.7 of 2017 on the file of the learned Additional Subordinate Judge, Tirunelveli.



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(in both appeals)

For Petitioner

: Mr.S.Srinivasa Raghavan,
for Mr.P.Samuel Gunasingh.

For Respondent

: Mr.H.Arumugam

COMMON ORDER

The Criminal Revision is directed against the judgment made in C.A.No.43 of 2021, dated 06.08.2022 on the file of the I Additional District and Sessions Court, Tirunelveli, partly allowing the petition in D.V.C.No.10 of 2016, dated 05.03.2021 on the file of the Court of the Judicial Magistrate No.V, Tirunelveli, filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

2. These Civil Miscellaneous Second Appeals are directed against the common order made in H.M.C.M.A.Nos.15 and 16 of 2021, dated 05.04.2022 on the file of the I Additional District Court, Tirunelveli, confirming the orders passed in H.M.O.P.No.7 of 2016 and H.M.O.P.No.9 of 2017, dated 20.07.2021 on the file of the Additional Subordinate Court, Tirunelveli, granting the relief of restitution of conjugal rights and dismissing the divorce petition respectively.



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3. For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in H.M.O.P.No.7 of 2016, which came to be filed for restitution of conjugal rights by the wife/Rajeswari against her husband/Karthick.

4. It is not in dispute that the marriage between the petitioner/Rajeswari and the respondent/Karthik was solemnized on 01.04.2015 at Kondanagaram Maimoon Mahal in Tirunelveli as per Hindu Rites and customs and due to their wed-lock, they were blessed with a son. It is also not in dispute that the petitioner/wife is a B.E (Computer Science) graduate and the respondent/husband is a B.Tech graduate and that the respondent was working as Engineer in Vestas Wind Technology Private Limited.

5. After filing the petition in H.M.O.P.No.9 of 2017 for divorce by the respondent (H.M.O.P.No.46 of 2016 on the file of the Sub Court, Ambasamudram), the petitioner filed the petition in H.M.O.P.No.7 of 2016, seeking restitution of conjugal rights. The petitioner/wife has initiated the proceedings under the Protection of Women from Domestic Violence Act in D.V.C.No.10 of 2016 against the respondent/husband and her in-laws. As



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usual in the matrimonial proceedings, the petitioner as well as the respondent have raised allegations and counter allegations against each other.

6.The case of the respondent/husband is that after their marriage, they were residing at the respondent's house at Palavoor; that subsequently, they have shifted to Theni, where the respondent was working at that time; that when the respondent asked the petitioner/wife to accompany him to Kodaikanal as Honeymoon trip, she asked him to bring his sister to honeymoon and as such, the respondent was psychologically upset over the behaviour of the petitioner and their marriage was not consummated for some time; that the petitioner as well as the respondent met the Doctor and found themselves fit for matrimonial life; that the respondent after getting counselling, managed to overcome the depression and mental cruelty caused by the petitioner and subsequently, consummated the marriage; that the petitioner has become pregnant and delivered a male boy; that the factum of birth of their son was not at all informed to the respondent and his parents by the petitioner and her parents, which caused mental cruelty; that the petitioner never respected the respondent's parents and she failed to perform



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her matrimonial duties; that the petitioner in order to degrade the respondent has falsely accused him as impotent and thereby lowered the image of the respondent amongst their relatives; that the petitioner demanded the respondent's salary and insisted the respondent not to give any money to his parents; that the petitioner also compelled the respondent to show undue respect and humbleness to her sisters and their husbands; that when the respondent refused to pay heed to her unjust demand, the petitioner abused the respondent and caused him mental cruelty; that the petitioner used to compare the respondent with her sister's husband in order to degrade him; that the petitioner after giving birth to male child remained in her parents' house threatening that she will file false complaint against the respondent as if he demanded dowry; that the petitioner left the respondent's home with all her jewels and things with ulterior motive; that the petitioner did not pay heed to the words of the elders of their family and the respondent's attempt to bring her relatives together and advised her properly went in vain and the petitioner turned hostile to the respondent's efforts and she continued to cause mental cruelty to the respondent and his parents and that therefore, the respondent was constrained to file the above petition, seeking divorce on the ground of mental cruelty.



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7. The case of the petitioner/wife is that after marriage, the petitioner and the respondent went to Kodaikanal for honeymoon trip and stayed there happily for two days; that the petitioner and the respondent after their marriage were residing at respondent's house at Palavoor for thirty days, thereafter they shifted to Theni and were leading a happy marital life; that the petitioner realized that the respondent is a puppet in the hands of his parents and sister and on their instigation, he showed indifference towards the petitioner without any reasonable cause; that the respondent was worried about his un-interest in sex and he voluntarily met Doctor Murugan, Shifa Hospital in Tirunelveli; that the respondent after getting counselling and medicine has become normal; that the petitioner has then become pregnant within three months from the date of marriage and she asked the respondent to take her to the renowned Dr.Gayathri at Theni, for checkup, but the respondent refused and asked her to go to Tirunelveli; that the petitioner delivered a male baby on 28.01.2016 and the same was informed to the respondent and his family members; that neither the respondent nor his family members have come to see the child; that though the petitioner contacted the respondent through mobile phone, he was not willing to speak



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with the petitioner and avoided the call; that the respondent with an intention to breakup the marital relationship, did not take care of the petitioner and her child; that the petitioner and his child are in custody of aged parents and the petitioner is not able to maintain herself and her child; that though the petitioner's brother and other relatives have taken steps for their reunion, the same was not considered by the respondent; that the respondent without any reasonable cause has withdrawn from the society of the petitioner and filed a petition for divorce before Sub Court, Ambasamudram by suppressing the real facts and that therefore, the petitioner was constrained to file the above petition seeking restitution of conjugal rights.

8.During trial in H.M.O.P.No.9 of 2017, the respondent examined himself as P.W.1 and exhibited four documents as Ex.P.1 to Ex.P.4 and the petitioner examined herself as R.W.1 and her brother Arumuga Chandran as R.W.2 and exhibited two documents as Ex.R.1 and Ex.R.2.

9.In H.M.O.P.No. 7 of 2016, the petitioner examined herself as P.W.1 and her brother Arumuga Chandran as P.W.2 and exhibited four documents as Ex.P.1 to Ex.P.4 and the respondent has filed a memo to treat his evidence



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adduced in H.M.O.P.No.9 of 2017 as the evidence in H.M.O.P.No.7 of 2016 and the same came to be recorded.

10. The learned Additional Subordinate Judge, upon considering the pleadings and evidence both oral and documentary and on hearing the arguments of both the sides, has passed separate orders, dated 20.07.2021 allowing the petition in H.M.O.P.No.7 of 2016, thereby granting the relief of restitution of conjugal rights and dismissed the petition in H.M.O.P.No.9 of 2017 and thereby rejecting the prayer for divorce. Aggrieved by the said orders, the respondent/husband has preferred two appeals in H.M.C.M.A. No.15 of 2021 and H.M.C.M.A.No.16 of 2021 and the learned I Additional District Judge, upon considering the materials available on record and on hearing the arguments of both the sides, has passed the common order, dated 05.04.2022, dismissing the both appeals and thereby confirming the orders passed by the learned trial Judge. Challenging the impugned common order, the present Civil Miscellaneous Second Appeals came to be filed.

11. The main reasons canvassed by the respondent to show that he was subjected to mental cruelty by the petitioner/wife is that while he



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requested the petitioner to accompany him to Kodaikanal for honeymoon trip, she asked the respondent to go with his sister and due to this comment, he was psychologically upset and as a result of which, he could not consummate the marriage. It is the case of the respondent that the petitioner used to harass and humiliate the respondent by saying that he has illicit relationship with his own sister. The petitioner has specifically disputed the above allegations and according to her, both of them went to Kodaikanal for honeymoon trip and remained happily for two days. Even according to the respondent, the marriage was initially not consummated and after getting treatment, he consummated the marriage and thereafter only the petitioner has become pregnant. The respondent has also alleged that the petitioner has falsely accused him as impotent and thereby lowered the image of the respondent amongst their relatives.

12.Except the allegations raised in the divorce petition and in the counter filed to the petition for restitution of conjugal rights, the respondent has not produced any iota of evidence to substantiate the said charges. The respondent has not chosen to examine his parents or his sister or any other neighbour to show that the petitioner has been alleged that he had illicit



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affairs with his sister or that he was impotent. The learned trial Judge as well as the learned appellate Judge considering the evidence available on record have rightly observed that since the respondent insisted to take his sister's family along with them to Kodaikanal that irritated the petitioner and told him that he can take his sister to Kodaikanal.

13.It is pertinent to note that subsequent to the said occurrence, both of them went to Kodaikanal and stayed there for two days. As rightly contended by the learned counsel for the petitioner, even assuming that there was such occurrence, the same came to be condoned by the respondent and went to Kondaikanal with the petitioner.

14.The respondent/husband in his divorce petition has alleged that the petitioner demanded the salary amount and insisted the respondent not to give any amount to his parents and that the petitioner by remaining in her parents' house threatened that she will file false complaint of demand of dowry. As rightly contended by the learned counsel for the petitioner, the petitioner has initiated the proceedings under Domestic Violence Act and admittedly, the petitioner has not filed any dowry complaint or any other



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complaint against the respondent before the police. Except the interested testimony of the respondent, he has not produced any iota of evidence to prove that he was subjected to mental cruelty by the petitioner. The Courts below have come to a right decision that there existed some misunderstanding between the petitioner and the respondent and that there was no serious issue or dispute between them.

15.At this juncture, the learned counsel for the respondent/husband would rely on the decision of Hon'ble Supreme Court to impress that since there has been a long period of continuous separation, it can easily be considered that matrimonial bond is beyond repair and the same would amount to mental cruelty, in the case of ***Naveen Kohli vs. Neelu Kohli*** reported in ***2006 4 SCC (5) 58***, and the following passages are extracted hereunder :

“72.Once the parties have separated and the separation has continued for a sufficient length of time and one of them has presented a petition for divorce, it can well be presumed that the marriage has broken down. The court, no doubt, should seriously make an endeavour to reconcile the parties; yet, if it is found that



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the breakdown is irreparable, then divorce should not be withheld.

The consequences of preservation in law of the unworkable marriage which has long ceased to be effective are bound to be a source of greater misery for the parties.

73.A law of divorce based mainly on fault is inadequate to deal with a broken marriage. Under the fault theory, guilt has to be proved; divorce courts are presented concrete instances of human behaviour as bring the institution of marriage into disrepute.

74.We have been principally impressed by the consideration that once the marriage has broken down beyond repair, it would be unrealistic for the law not to take notice of that fact, and it would be harmful to society and injurious to the interests of the parties. Where there has been a long period of continuous separation, it may fairly be surmised that the matrimonial bond is beyond repair. The marriage becomes a fiction, though supported by a legal tie. By refusing to sever that tie the law in such cases do not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties.”

16.In the above decision's case, wife has filed several police complaints and on that basis, FIRs came to be registered and also taking note of the fact that the wife gave an affidavit before the High Court and got



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non-bailable warrants issued against the respondent and she got the advertisement published in the English National Newspaper that her husband was only an employee and also the fact that the parties have been living separately for more than 10 years, the Hon'ble Supreme Court has held that the marriage is broken down irretrievably, granted divorce and in that decision, the Hon'ble Supreme Court has made recommendation to the Union of India to consider bringing an amendment in the Hindu Marriage Act, 1955 to incorporate irretrievable breakdown of marriage as a ground for the grant of divorce.

17. In the case of ***Samar Ghosh Vs. Jaya Ghosh*** reported in (2007) **4SCC 511**, the Hon'ble Apex Court has listed out some instances of human behaviour, which may be relevant in dealing with the cases of 'mental cruelty'.

“(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is



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such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.

(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.



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(ix) *Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day to day life would not be adequate for grant of divorce on the ground of mental cruelty.*

(x) *The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill-conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.*

(xi) *If a husband submits himself for an operation of sterilization without medical reasons and without the consent or knowledge of his wife and similarly if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.*

(xii) *Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.*

(xiii) *Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.*

(xiv) *Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported*



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by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

18. In the above decision case, the parties were living separately for more than sixteen and half years and taking note of the refusal of the wife to cohabit with the husband and the wife's total indifference and neglect of the appellant during his illness, the Hon'ble Supreme Court has come to a decision that the matrimonial bond has been ruptured beyond repair because of the mental cruelty caused by the wife.

19. The learned counsel for the respondent/husband would also rely on a decision of the Hon'ble Supreme Court in the case of ***K.Srinivas Rao Vs.D.A.Deepa*** reported in ***(2013) 5 SCC 226***, wherein the wife has levelled serious allegations that the mother of the husband asked her to sleep with her father-in-law and wife's attempts to ensure that her husband and his parents were put in jail and he was removed from the job, has held that the same would constitute cruelty and the relevant portion is extracted hereunder :

“In the instant case, complaint was filed by respondent/wife against appellant/husband and his family



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members under Section 498-A IPC wherein besides alleging ill-treatment and harassment for dowry, it was alleged that mother of appellant/husband had asked respondent/wife to sleep with her father-in-law. Said complaint was found to have been falsely lodged out of frustration on appellant husband's refusal to cohabit. Thus, held, conduct of respondent/wife in filing a complaint making unfounded, indecent and defamatory allegation against her mother-in-law, in filing revision seeking enhancement of sentence awarded to appellant/husband, in filing appeal questioning acquittal of appellant/husband and his parents indicates that she made all attempts to ensure that he and his parents were put in jail and he was removed from his job, which certainly constituted cruelty.”

20.The learned counsel would also rely on a decision of Division Bench of this Court in the case of ***R.Balamurugan Vs. Sripriya*** reported in **2024 (6) CTC 362**, and the relevant passage is extracted hereunder :

“47. The facts that have weighed with us in coming to our ultimate conclusion are as follows:

- (i) The couple has been apart for more than 12 years.*
- (ii) The children are majors and are receiving cordial attention from both their parents. Their needs, both academic and otherwise, are being addressed by the parents.*
- (iii) We are of the considered view that the observations*



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and findings in the impugned order adverse to the Appellant are factually incorrect as no material evidence has been produced in support of the same.

(iv) The appellant has expressed the deep hurt in regard to the allegations made over time by the respondent, touching upon his character and his conduct. We see some merit in the position that he has taken.

(v) As far as the respondent is concerned, there is nothing that would convince us of the veracity of the allegations that she has been making over the years, especially those in the Domestic Violence complaint which she herself has given up.

(vi) Seen in the light of our notings and conclusions as above, her insistence on restitution of conjugal rights, to our mind would serve no purpose, except perhaps her own.

(vii) The children have been extremely diplomatic and have made it clear that they would do their best in the relationship whatever may be the decision of the Court.

(viii) However, we note that they are comfortable in the position where they are today.

(ix) The needs of the respondent are also being met. The maintenance awarded to the respondent is being received by her till date and we are assured by the appellant that the same would be continued by him for his life time. This is recorded.”



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21.In the above decision case, the parties were living separately for more than 12 years and taking note of the fact that the wife has levelled allegations touching upon husband's character and his conduct and taking note of the other circumstances, the Division Bench has decided to dissolve the marriage between the parties.

22.The learned counsel for the petitioner/wife would rely on the judgment of Hon'ble Supreme Court in the case of ***K.Srinivas Vs. K.Sunita*** reported in ***2014 (3) MWN (Civil) 671***, wherein the Hon'ble Apex Court has specifically held that power to grant divorce on the ground of irretrievable breakdown of marriage is only available with the Apex Court and the said power is not available to any other Court of law and the relevant passage is extracted hereunder :

“3. Irretrievable breakdown of marriage as a ground for divorce has not found statutory acceptance till date. Under Article 142 of the Constitution, the Supreme Court has plenary powers “to pass such decree or make such order as is necessary for doing complete justice in any case or order pending before



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it”. This power, however, has not been bestowed by our Constitution on any other Court. It is for these reasons that we have confined arguments only to the aspect of whether the filing of a false criminal complaint sufficiently proves matrimonial cruelty as would entitle the injured party to claim dissolution of marriage. It will be relevant to mention that the Law Commission of India in its Reports in 1978 as well as in 2009 has recommended the introduction of irretrievable breakdown of marriage as a ground for dissolution of marriage; the Marriage Laws (Amendment) Bill of 2013 incorporating the ground has even received the assent of the Rajya Sabha. It is, however, highly debatable whether, in the Indian situation, where there is rampant oppression of women, such a ground would at all be expedient. But that controversy will be considered by the Lok Sabha.”

23.In the present case, the marriage was solemnized in the year 2015 and they are living separately from 2017. Moreover, in the present case, the respondent/husband has not raised any other serious allegations, as shown in



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the above decisions, as against the petitioner/wife. Considering the entire facts and circumstances of the case, this Court has no hesitation to hold that the Courts below have rightly rejected the prayer for divorce and granted the relief of restitution of conjugal rights and as such, there is nothing to interfere with the reasoned findings recorded by the Courts below.

24. In the DVC proceedings, the petitioner/wife examined herself as P.W.1 and exhibited five documents as Ex.P.1 to Ex.P.5 and the respondent examined himself as R.W.1. The learned Judicial Magistrate, upon considering the evidence available and on record and on hearing the arguments of both sides, has come to a decision that the petitioner is not entitled to get any order for residence, but granted maintenance at Rs.2,500/- each for the petitioner and her minor son. Aggrieved by the said order, the petitioner/wife has preferred an appeal in C.A.No.43 of 2021 and the learned I Additional District and Sessions Judge, upon considering the materials available on record and on hearing the arguments of both the sides, has passed the impugned judgment, dated 06.08.2022, allowing the appeal in part and directed the respondent to fix a house for the petitioner as claimed under Section 19 of Domestic Violence Act., and enhanced the maintenance



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and directed the respondent to pay Rs.4,000/- each apart from Rs.6,500/- granted by the Sub Court, Tirunelveli as interim maintenance. Challenging the impugned order, the respondent/husband has preferred the present revision.

25.The learned Magistrate, by observing that the petitioner as P.W.1 and her brother as P.W.2 in their evidence would admit that they are not aware about the ownership of the house property at Palavoor and that the petitioner has not produced any materials to show the ownership of the said property, has rejected the relief claimed under Section 19 of D.V.Act. Section 19 of Domestic Violence Act provides legal measures to ensure the protection of victims through residence orders and are designed to offer effective protection to victims of Domestic violence. Section 19(1)(f) of Domestic Violence Act, contemplates that the Magistrate can direct the respondent to secure an equivalent level of alternative accommodation for the aggrieved person or pay rent. The learned appellate Judge, by observing that Section 19 of D.V Act speak about the ownership of the property and by referring to the evidence of P.W.1 as well as R.W. 1 and also the admitted



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fact that the respondent's family has been residing at Palavoor and after the marriage unable to join with them and only due to the respondent's/husband's avocation, they shifted to Theni, has come to a decision that the respondent/husband is duty bound to secure an alternative accommodation for the petitioner/wife. Considering the facts and circumstances of the case and the reasoned decision, the impugned order directing the respondent to secure alternative accommodation cannot be found fault with.

26. Now turning to the maintenance, it is pertinent to note that the petitioner/wife has earlier filed a petition under Section 24 of Hindu Marriage Act in I.A.No.20 of 2017 in H.M.O.P.No.7 of 2016 before the Additional Sub Court, Tirunelveli and the learned Additional Sub Judge, after conducting enquiry, has passed the order, dated 05.10.2017, directing the respondent to pay interim maintenance at Rs.6,500/- for the petitioner as well as her minor son.

27. As already pointed out, the learned Magistrate taking note of the interim maintenance already awarded, has awarded Rs.2,500/- each for the



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petitioner and her minor son. But the learned appellate Judge, by observing that the amount awarded by the learned Magistrate is on lower side, has enhanced the compensation to Rs.4,000/- each, totally enhanced Rs.8,000/- in addition to the interim maintenance awarded at Rs.6,500/-.

28.It is not in dispute that interim maintenance was awarded during the pendency of the matrimonial proceedings in H.M.O.P.No.7 of 2016 and the order of interim maintenance has come to an end, since the HMOP itself was disposed of.

29.The learned counsel for the respondent would submit that since the interim maintenance is not in force, the respondent is only liable to pay at Rs.8,000/- as awarded by the appellate Court and not at the rate of Rs.14,500/- as held by the appellate Judge.

30. It is not in dispute that the learned Magistrate as well as the learned Appellate Judge, taking note of the interim maintenance awarded by the matrimonial Court, has arrived at the amounts, above referred. The Hon'ble Supreme Court in the case of *Rajnish Vs. Neha and another*



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reported in **(2021) 2 SCC 324**, has settled the legal position that where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or set-off, of the amount awarded in the previous proceeding(s), while determining whether any further amount is to be awarded in the subsequent proceedings.

31.The learned Magistrate as well as the first appellate Judge has rightly taken note of the interim maintenance awarded by the matrimonial Court and arrived at the amount and hence, the present contention of the respondent that he is liable to pay at Rs.8,000/- per month cannot be sustained and is liable to pay at Rs.14,500/- as fixed by the appellate Court.

32.The Revisional jurisdictional Court can be exercised so as to examine the correctness, legality or propriety or an order passed by the Courts below. It is settled law that the revisional jurisdiction of the High Court is a very limited one and cannot be exercised in a routine manner. The respondent has not shown that there is palpable error, or non compliance with legal provision or that the decision is completely erroneous or that the judicial discretion is exercised arbitrarily. Considering the above, this Court



*Crl.R.C.(MD)No.812 of 2022
and CMSA(MD)Nos.23 & 20 of 2022*

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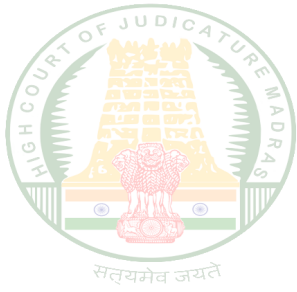
is of the view that there is nothing to interfere with the decision of the appellate Court.

33. In view of the above, this Court concludes that the Criminal Revision and the Civil Miscellaneous Second appeals are absolutely devoid of merits and are liable to be dismissed. Considering the other facts and circumstances of the case, this Court further decides that the appellate must be mulcted with costs.

34. In the result, the Criminal Revision Case is dismissed, confirming the judgment passed in C.A.No.43 of 2021 on the file of the I Additional District and Sessions Judge, Tirunelveli. The Civil Miscellaneous Second Appeals are dismissed with costs. Consequently connected Miscellaneous Petition is closed.

30.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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*CrI.R.C.(MD)No.812 of 2022
and CMSA(MD)Nos.23 & 20 of 2022*

K.MURALI SHANKAR,J.

das

To

- 1.The I Additional District and Sessions Judge,
Tirunelveli.
- 2.The Judicial Magistrate No.V,
Tirunelveli.
- 3.The Additional Subordinate Judge,
Tirunelveli.

Pre-delivery order made in
CrI.R.C.(MD)No.812 of 2022
and
C.M.S.A(MD)Nos.23 and 24 of 2022
and
CrI.M.P(MD)N0.10074 of 2022

Dated: 30.04.2025