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A. a. Ashinkumar vs Resmi Rani

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SooperKanoon Citation : sooperkanoon.com/1481772

Court : Kerala

Decided On : Oct-06-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.Rev.Pet/362/2022

Appellant : A. a. Ashinkumar

Respondent : Resmi Rani

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH THURSDAY, THE 6TH DAY OF OCTOBER 2022 / 14TH ASWINA, 1944 CRL.REV.PET NO. 362 OF 2022 MC 64/2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,KOTTARAKKARA CRA 167/2017 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - VI, KOLLAM REVISION PETITIONERS/APPELLANTS & 2ND RESPONDENT/RESPONDENTS: 1 A. A. ASHINKUMAR AGED 44 YEARS, S/O APPUKUTTAN ALAPPAKKAM, CHENNAI-600 116 2 SAVITHRI AGED 75 YEARS, W/O APPUKUTTAN, ALAPPAKKAM, CHENNAI-600 116 3 SUNITHA AGED 48 YEARS, D/O SAVITHRI, ALAPPAKKAM, CHENNAI-600 116 REPRESENTED THROUGH POWER OF ATTORNEY HOLDER A. A. ASHINKUMAR, AGED 44

YEARS,S/O APPUKUTTAN, ANNAMMASSERI HOUSE NO.456/13,14TH STREET, ASHATHALEKSHMI NAGAR, ALAPPAKKAM, CHENNAI-600 116 -:2:- BY ADVS. DIVYA C BALAN P.D.SUBRAMANIAN NAMPOOTHIRI K.N.SUGATHAN RESPONDENTS/1ST RESPONDENT/PETITIONER: 1 RESMI RANI AGED 41 YEARS, D/O RAVEENDRAN SOUPARNIKA, VILANGARA, NELLIKUNNU P.O, KOTTARAKKARA TALUK, KOLLAM PIN - 691520

2 STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. PIN: 682031 BY ADVS. Rapheeque C k K.B.NIDHINKUMAR(K/160/2010) SRI. G. SUDHEER, PP THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06.10.2022, ALONG WITH Crl.Rev.Pet.360/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH THURSDAY, THE 6TH DAY OF OCTOBER 2022 / 14TH ASWINA, 1944 CRL.REV.PET NO. 360 OF 2022 MC 64/2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,KOTTARAKKARA CRA 164/2017 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - VI, KOLLAM REVISION PETITIONERS/RESPONDENTS 1 TO 3/RESPONDENTS: 1 A. A. ASHINKUMAR AGED 44 YEARS ALAPPAKKAM, CHENNAI-600 116 2 SAVITHRI AGED 75 YEARS, W/O APPUKKUTTAN ALAPPAKKAM, CHENNAI-600 116. 3 SUNITHA AGED 48 YEARS ALAPPAKKAM, CHENNAI-600 116 REPRESENTED THROUGH POWER OF ATTORNEY HOLDER A. A. ASHINKUMAR, AGED 44 YEARS,S/O APPUKUTTAN, ANNAMMASSERI HOUSE NO.456/13,14TH STREET, ASHATHALEKSHMI NAGAR, ALAPPAKKAM, CHENNAI-600 116.

-:4:- BY ADVS. DIVYA C BALAN P.D.SUBRAMANIAN NAMPOOTHIRI K.N.SUGATHAN RESPONDENTS/APPELLANT & 4TH RESPONDENT/PETITIONER: 1 RESMI RANI AGED 41 YEARS SOUPARNIKA, VILANGARA, NELLIKUNNU P.O, KOTTARAKKARA TALUK, KOLLAM, PIN -

691520 2 STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. PIN: 682031, PIN - 682031 BY ADVS. Rapheeque C k K.B.NIDHINKUMAR(K/160/2010) SRI. G. SUDHEER, PP THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06.10.2022, ALONG WITH Crl.Rev.Pet.362/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:5:-

ORDER

Dated this the 6th day of October, 2022 These criminal revision petitions have been preferred challenging the common judgment passed by the Additional Sessions Judge-VI, Kollam (for short 'the appellate court') in Crl.A.Nos. 164/2017 and 167/2017 dated 22.12.2021 as well as the order dated 19.9.2017 in M.C.No.64/2015 of the Judicial First Class Magistrate Court-I, Kottarakara (for short 'the trial court').

2. The 1st revision petitioner is the husband of the 1 st

respondent. The 1st respondent filed M.C.No.64/2015 against the revisions petitioners claiming various reliefs under Section 12 of the Protection of Women from Domestic Violence Act (for short DV Act). The trial court allowed the MC as per order dated 19.9.2017 and the following order was passed: In the result, the petition is allowed as follows:

1. The respondent is directed to pay a monthly maintenance of Rs.7,000/- to the petitioner and Rs.3,000/- to the child. -:6:-

2. The respondents are restrained from committing any kind of domestic violence in future.

3. The first respondent is directed to pay

compensation of Rs.4,00,000/- (Rupees Four lakhs only) to the petitioner for her mental agony within one month, failing which the amount will carry 6% annual interest till realisation.

4. The petitioner is permitted to take KL 24A/0342 Maruthi car from the residence of respondent.

5. 1st respondent is directed to return Rs.8 lakhs (Rupees Eight lakhs only), the amount received from PW2 within one month, failing which the amount will carry 6% annual interest till realisation.

3. Both the husband and wife challenged the said order

before the appellate court. The appellate court by a common

judgment allowed both the appeals in part as follows:

In the result, both the appeals are allowed in part. The order passed by the court below is modified, and the petition is allowed as follows:

(i) The first respondent is directed to pay monthly maintenance at the rate of Rs.20,000/- per month to -:7:- the petitioner and at the rate of Rs.5,000/- per month to the minor child from the date of petition.

(ii) The first respondent is directed to pay a

compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the petitioner, for her mental agony, within one month, failing which he will be liable to pay interest at the rate of 6% annually from the date of

order till realization.

(iii) The First respondent is restrained from

committing domestic violence against the petitioner in future. It is challenging the judgment of the appellate court as well as the order of the learned Magistrate, these revision petitions have been preferred.

4. The learned counsel for the revision petitioners

submitted before me that the revision petitioners are now only aggrieved by the quantum of maintenance awarded to the wife and child. In fact, the learned Magistrate ordered maintenance at the rate of 7,000/- per month to the wife and 3,000/- per month to the child. The appellate court enhanced the maintenance at the rate of 20,000/- per month to the wife and 5,000/- per month to the child. -:8:- Admittedly, the husband is an Engineer working in TCS. The documents produced would show that he is earning 1,50,000/- per month. The appellate court after evaluating the evidence on record, needs of the wife and the child and also the income of the husband, fixed the maintenance at the rate 20,000/- to the wife and 5,000/- to the child. I see no illegality or impropriety in the said judgment so as to interfere it invoking the revisionary power of this Court. Accordingly, both these revision petitions are dismissed. Sd/- DR. KAUSER EDAPPAGATH JUDGE kp -:9:- APPENDIX OF CRL.REV.PET 360/2022 PETITIONER ANNEXURES Annexure1 POWER OF ATTORNEY -:10:- APPENDIX OF CRL.REV.PET 362/2022 PETITIONER ANNEXURES Annexure1 POWER OF ATORNEY EXECUTED BY 3RD PETITIONER IN FAVOUR OF 1ST PETITIONER.

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