NC: 2023:KHC:36044
CRL.RP No. 1326 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF OCTOBER, 2023

BEFORE

THE HON'BLE MR JUSTICE RAJENDRA BADAMIKAR

CRIMINAL REVISION PETITION NO.1326 OF 2015

BETWEEN:

RAMESH B.S.,
S/O SUBRAMANI,
AGED ABOUT 47 YEARS,
R/O NO.130/Y,BASHAM CIRCLE,
RAJAJINAGARA III BLOCK,
RAJAJINAGARA POST,
BENGALURU - 560 034.

...PETITIONER

(BY SRI. PRASAD B.S., ADVOCATE)

AND:

NAVANEETHA,
D/O BALAKRISHNAN,
AGED ABOUT 35 YEARS,
R/AT NO.18,
REVENUKAMBA TEMPLE ROAD,
DODDABOMMASANDRA,
VIDYARANYAPURA POST,
BENGALURU - 560 097.

...RESPONDENT

(BY SRI. SHAIJU KUMAR, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 13.11.2015 PASSED BY THE LXVII ADDL. CITY CIVIL AND S.J., BANGALORE (CCH-68) IN CRL.A.NO.116/2015 AND RESTORE

THE ORDER DATED 03.01.2015 PASSED BY THE MMTC-III, BANGALORE IN CRL.MISC.NO.147/2013.

THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This revision petition is filed by the revision petitioner/husband under Section 397 r/w 401 of Cr.P.C., challenging the order passed by the LVII Additional City Civil and Sessions Judge, Bengaluru City in Criminal Appeal No.116/2015 dated 13.11.2015, whereby the learned Sessions Judge has partly allowed the appeal by awarding compensation in a sum of Rs.4,00,000/- to the respondent/wife under Section 22 of the Domestic Violence Act, 2005.

2. For the sake of convenience, parties herein are referred with the original ranks occupied by them before the Trial Court.

3. The brief factual matrix leading to the case are that the petitioner/wife has filed a petition under Section 12 of Domestic Violence Act, seeking a protection order by

way of an injunction restraining the respondent/husband from committing a Domestic Violence seeking maintenance to herself and her children, medical expenses and compensation from the respondent/husband.

4. According to the petitioner, she was married with the respondent/husband on 10.09.2000 at Sri. Lakshmi Venkateshwara Kalyana Mantapa, Yeshwanthpur, Bangalore and it is alleged that her parents have given sufficient dowry in the form of cash and gold. Subsequently, two children were born out of the wedlock and it is alleged that his son died during childhood itself. According to the revision petitioner, the respondent/husband has subjected her to Domestic Violence, demanding dowry and physical ill treatment and hence, she has filed the petition under Section 12 of the Domestic Violence Act, 2005.

5. The revision petitioner/husband appeared and filed objections, contested the matter and disputed the claim. He has specifically denied the allegations and

asserted that the respondent/wife herself has left his company and because of her negligence, 2nd child was died and further subsequently, she got converted into Christianity and tried to convert the female child also into Christianity. He further asserted that he is suffering from paralytic stroke and unable to maintain himself and sought for dismissal of the petition.

6. The petitioner/wife was examined as P.W.1 and she placed reliance on four documents. The respondent/husband examined as R.W.1 and he placed reliance on 15 documents as per Exs.R1 to R15.

7. After hearing the arguments and after considering the oral and documentary evidence, the learned Magistrate held that the petitioner/wife has failed to establish that the respondent/husband has committed Domestic Violence and further observed that she is not entitled for any monitory benefits as defined as under Section 18 to 22 of the Domestic Violence Act and dismissed the petition.

8. Being aggrieved by this order, the petitioner/wife has approached the LVII Additional City Civil and Sessions Judge, Bengaluru City in Crl.A.No.116/2015. The learned Sessions Judge after re-appreciating the oral and documentary evidence, denied the maintenance and confirmed that there is no Domestic Violence proved against the respondent. However, a compensation was ordered to be paid to the tune of Rs.4,00,000/- to the respondent/wife on the ground that the wife is unable to maintain herself. Against this order the husband is before this Court.

9. Heard the learned counsel for the revision petitioner/husband. The learned counsel for the respondent/wife is absent. Perused the records.

10. It is evident from the records that both the Courts have concurrently held that there is no Domestic Violence committed against the wife. This finding is not challenged by the wife. Further, admittedly the wife was

converted into Christianity and when she gets converted into Christianity all the rights vested in her, stand nullified. Though there is no divorce between the parties, but, in view of conversion of wife to Christianity, it would disclose that the marriage stands dissolved. Besides, there is no specific declaration passed in this regard by any competent Court of Law. However, it is admitted fact wife is converted in to Christianity.

11. Section 22 of the Protection of Women from Domestic Violence Act, 2005 deals with compensation orders which reads as under:

> *"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. As per Section 22 of the Protection of Women from Domestic Violence Act, 2005 the compensation can

be awarded in addition to the relief granted in a petition under Section 12 when Domestic Violence is established. But admittedly in the instant case, both the Courts have concurrently held that Domestic Violence is not established and infact the wife has got converted into Christianity and it is a case of vice versa. There is also evidence on records to show that the revision petitioner/husband is suffering from paralytic stroke. However, the Appellate Court only on the ground that still the marriage subsists and as she is unable to maintain herself, awarded compensation. But, under Section 22 Protection of Women from Domestic Violence Act, 2005, compensation can be awarded only if, Domestic Violence is proved and infact, in the instant case, after getting converted into Christianity the revision petitioner/wife has lost all the rights vested in her. Under these circumstances, the Appellate Court has committed an error in awarding compensation and the compensation awarded that tune of Rs.4,00,000/- which has resulted in miscarriage of justice. Looking to these facts and

circumstances of the case, the revision petition needs to be allowed. Accordingly, I proceed to pass the following:

O R D E R

(a) The Criminal Revision Petition is ***allowed***.

(b) The impugned order passed by the LXVII Additional City Civil and Sessions Judge, Bengaluru City in Crl.A.No.116/2015 dated 13.11.2015 is ***set aside***.

(c) The order of the III Traffic Metropolitan Magistrate Court, Bengaluru City in Crl.M.C.No.147/2013 dated 03.01.2015 stands ***restored***.

(d) The amount, if any, deposited shall be refunded to the revision petitioner/husband.

Sd/-
JUDGE

MS*
List No.: 1 Sl No.: 18
CT:SNN