

Pattu W/O. Madurai Veeran vs Madurai Veeran S/O. Sundaram on 10 November, 2023

Crl.R.C.(MD) Nos.398, 311,

IN THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.09.2023
PRONOUNCED ON : 10.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl. R.C. (MD) No.398 of 2019

Pattu W/o. Madurai Veeran

Vs.

1. Madurai Veeran S/o. Sundaram
2. Maragatham W/o. Sundaram (late)
3. Krishnaveni W/o. Kesavan
4. Pugalendi S/o. Sundaram (late)
5. Latha W/o. Pugalendi

...

PRAYER: This Criminal Revision Petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, praying to call for the record pertaining to the order passed for not allowing the petition under 18(a)(b)(f), 19(1)(a)(c) & (5) and 20(1)(d), (2) & (3) of the Protection of Women from Domestic Violence Act 2005 by the learned III Additional District and Sessions Judge, Tiruchirappalli in Crl. A. No.63 of 2004.02.2019 and to set aside the same.

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<https://www.mhc.tn.gov.in/judis>

Crl.R.C.(MD) Nos.398, 311, and

Crl. R.C. (MD) No.311 of 2019
and

Crl. M.P. (MD) No.4576 of 2019

Madurai Veeran S/o. Sundaram

..

Vs.

1. Pattu W/o. Madurai Veeran
2. Maragatham W/o. Sundaram (late)
3. Krishnaveni W/o. Kesavan
4. Pugalendi S/o. Sundaram (late)
5. Latha W/o. Pugalendi

... Re

PRAYER: This Criminal Revision petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, praying to call for the records pertaining to the order passed by the learned III Additional District Sessions Judge, Tiruchirappalli in CrI.A. No.63 of 2018 dated 04.02.2019 and to set aside the same.

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<https://www.mhc.tn.gov.in/judis>

CrI.R.C.(MD) Nos.398,

CrI. R.C. (MD) No.786 of 2019

and

CrI. M.P. (MD) Nos.8988 and 11227 of 2019

Madurai Veeran S/o. Sundaram

Vs.

Pattu W/o. Madurai Veeran

PRAYER: This Criminal Revision case has been filed under Section 397 r/w 401 of Criminal Procedure Code, praying to call for the records pertaining to the order passed by the learned III Additional District Sessions Judge, Tiruchirappalli in CrI.A. No.57 of 2018 dated 04.02.2019 confirming the order passed by the learned Judicial Magistrate / Additional Mahila Court, Trichy in M.C. No.114 of 2014 dated 26.04.2018 and set aside the same.

For Petitioner : CrI. R.C. (MD) Nos.311 & 786
Mr. R. Singaravelan, Senior Counsel

for Mr. D. Selvanayagam

Crl. R.C. (MD) No.398 of 2019
Mr. S. Sitharthan

For Respondents :

Crl. R.C. (MD) No.398 of 2019
Mr. R. Singaravelan, Senior C
for Mr. D. Selvanayagam [for
No appearance [for R2 to R4]
M/s. G. Ashok Adithyan, [for
Crl. R.C. (MD) No.311 of 2019

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<https://www.mhc.tn.gov.in/judis>

Crl.R.C.(MD) Nos.398, 31

Mr. S. Sitharthan [for R1]
No appearance [for R2 to R4]
M/s G. Ashok Adithyan, [for R5]

Crl.R.C.(MD)No.786 /19
Mr. S. Sitharthan [for responde

COMMON ORDER

This Criminal Revision in Crl. R.C. (MD) No.398 of 2019 has been preferred by the petitioner Pattu as against the Judgment passed in Crl.A. No.63 of 2018 on the file of the learned III Additional Sessions Judge, Tiruchirappalli dated 04.02.2019, wherein the Appellate Court has refused to grant relieves under Sections 18(a)(b)(f), 19(1)(a)(c) & (5) and 20(1)(d) and Sections 2 & 3 of the Protection of Women from Domestic Violence Act 2005. This petitioner / wife of the 1st respondent has filed a maintenance case in M.C. No.114 of 2014 before the Additional Mahila Court, Tiruchirappalli sought for relief under Sections 12, 18, 19, 20 and 22 of Protection of Women from Domestic Violence Act, 2005 against her husband / 1st respondent and in laws / other respondents.

1(a) The Criminal Revision Petition in Crl.R.C. No.311 of 2019 has been preferred by the petitioner Madurai Veeran as against the Judgment <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 passed in Crl.A. No.63 of 2018 on the file of the learned III Additional Sessions Judge, Tiruchirappalli dated 04.02.2019 whereby the order passed by the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in M.C. No.114/2014 dated 26.04.2018 has been modified and remanded with direction that

(a) the petitioner herein/ husband shall be restrained from receiving the half share of rent in respect of the property covered under Ex.P4;

(b) directed the 5th respondent to pay the wife / 1st respondent's half share of rent in respect of the property covered under Ex.P.4 to her;

(c) the petitioner/husband shall be restrained from alienating, disposing off or encumbering the shared house hold covered under Ex.P.5 without the leave of the learned Magistrate;

(d) directed the petitioner/husband herein to pay Rs.4,000/- per month to the 1st respondent herein, wife of the petitioner, towards rent.

The Crl. A. 63/2018 was partly allowed by granting relieves mentioned above as (a) to (d) besides remitting back the case to the file of learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli with direction to the parties to appear before the learned Judicial Magistrate, Additional Mahila Court, Trichy and directed the petitioner herein/husband, <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 to file an affidavit before the learned Magistrate disclosing the total amount of rent/profit received by him/accrued to him, in respect of the property covered under Ex.P.3 and Ex.P.4 from November 2008 till December 2018 so as to arrive at the damages to be payable by him to the 1st respondent, wife of the petitioner.

1(b) The Criminal Revision Petition No.786 of 2019 has been preferred as against the order passed in Criminal Appeal No.57 of 2018 on the file of the learned III Additional District and Sessions Judge, Tiruchirappalli wherein the Appellate Court has confirmed the order passed by the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in M.C. No.114 of 2014 dated 26.04.2018 awarding amount for residence / maintenance.

2. The case of the petitioner before the Trial Court in M.C. No.114 of 2014 is that:

2.1. For the sake of convenience, the parties are mentioned as per the rank in Trial Court.

2.2. The petitioner Pattu married the 1st respondent Madurai Veeran <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 on 30.10.1981 at Woraiyur. At the time of marriage, the petitioner's parents provided 40 sovereigns of gold jewels, 2kgs of silver articles, brass and ever silver vessels as Sreedhanam. Thereafter, the petitioner lived with her husband / 1st respondent along with other respondents as joint family. After marriage, the 2nd respondent, who is the mother of the 1st respondent, along with her deceased husband, induced the 1st respondent to obtain dowry from the petitioner. Upto 1994, the petitioner lived with her husband / 1st respondent and thereafter, the 1st respondent, joined with other respondents, had harassed the petitioner. Due to the wedlock, two children were born to the petitioner and the 1st respondent. During the pregnancy period of the petitioner, the 1st respondent compelled the petitioner to abort the child by giving tablets. The 1st respondent had illicit intimacy with the 5th respondent who is the wife of the 4th respondent. Further the 1st respondent very often went to Kerala and there also, he had married another woman. When the petitioner advised the 1st

respondent to stop the illegal relationship with 5th respondent, the 1st respondent harassed the petitioner. Whenever the 1st respondent went to Kerala, he used to stay there for 10 days and married the Kerala lady.

2.3. On 23.10.2008, the 1st respondent/husband had given a <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 complaint against the petitioner/wife before Jeeyapuram Police Station and the police had also enquired the petitioner. While so, after completion of enquiry, on 25.10.2008, the petitioner was refused by the respondents to enter into her matrimonial home. The 1st respondent/husband wanted to get back the jewels pledged with one Vaidyanathan for the marriage of his daughters, without paying any money. For that, the petitioner/wife has not given her consent. Thereafter, the petitioner gave a complaint before Thuraiyur Police Station, but they refused to receive the same. Thereafter she went to her mother's house. Thereafter the 1st and 5th respondents lived happily and other respondents also abetted the same. The 1st respondent failed to live with the petitioner and refused to give the Sreedhana articles of the petitioner. Taking advantage of the mindset of the 1st respondent, the 6th respondent refused to return back the jewels which were pledged with him and failed to return back a sum of Rs.4,00,000/- which was paid to the 6th respondent to redeem the pledged jewels.

2.4. Thereafter the petitioner filed a case before the Chief Judicial Magistrate Court, Trichy for maintenance and the same is pending.

Therefore the 1 to 5 respondents are liable to be punished under the <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 provisions of Dowry Prohibition Act and it is necessary to take action as per the Act. As against the 1st and 5th respondents, legal action to be taken for their extra-marital affairs. All the Sreedhana articles have to be handed over to the petitioner. As against 6th respondent, case has to be registered under Section 406 and 420 of IPC and Rs.4,00,000/- to be ordered to return back and the respondents 1 to 5 are to be directed to pay a sum of Rs.10,00,000/- towards damages and protection order through police department.

3. The case of the 1st respondent/husband is that the petition filed by the petitioner is not maintainable and the same has been filed with false and frivolous allegations to harass the 1st respondent. The relationship between the parties are admitted. But at the same time, the contention that the jewels and the household articles were presented at the time of marriage. The averments that, only on the compulsion of the 2nd, 3rd respondents and the father of the 1st respondent, the 1st respondent harassed the petitioner, is denied. The averments made in the petition with regard to the cruelty made by the 1st respondent and the sexual torture given by the 1st respondent are stoutly denied. Further, the 1st respondent denied the alleged illicit intimacy with the 5th respondent as pleaded by the petitioner. The 1st respondent also <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 denied the averments with regard to the compulsion to abort the child and the marriage between the 1st respondent and a lady belongs to Kerala. In fact, the 1st

respondent gave a complaint on 23.10.2008 and the allegations made in that complaint would reflect the true state of facts of the case. The petitioner deserted the 1st respondent and indulged in various activities hostile to the interest and reputation of the family. The petitioner has only swindled away all the savings of the 1st respondent which had been made in her name by misusing her position as wife. The petitioner/wife has also taken away all her jewels and she wanted to lead a wayward life which is unbecoming of any housewife. Already the petitioner/wife filed a petition in M.C. No.8 of 2009 on the file of the learned Chief Judicial Magistrate, Tiruchirappalli. The said case was dismissed after full trial. Thereafter, under the provisions of Domestic Violence Act does not even merit consideration. The petitioner is not entitled to get any relief. None of the deposits made in the name of the petitioner belongs to her. No article belonging to the petitioner is available with the respondents. Therefore the petition is liable to be dismissed.

4. The 4th respondent has filed a counter, which has been adopted by <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 the 5th respondent, as follows:-

4.1 The 4th respondent denied the allegations averred in the petition as false and the 4th respondent is the younger brother of the 1st respondent and the 5th respondent is the wife of the 4th respondent. After the marriage of the petitioner with the 1st respondent, they lived just for 4 months jointly with the respondents 2 to 4 and thereafter they lived separately from the respondents 2 to 4. The respondents did not harass the petitioner in any way whatsoever at any point of time. The averments made in Para 8 of the petition are vehemently denied and the above said allegations of the illicit affair between the 1st and the 5th respondents are highly imaginary and contemptuous. The petitioner has added these 4th and 5th respondents only to harass them and therefore, the petition filed by the petitioner as against the 4th and 5th respondents, is liable to be dismissed.

5. In the Trial Court, on the side of the petitioner/wife, she examined herself as PW1 and marked Ex.P.1 to Ex.P.7. On the side of the respondents, the 1st respondent was examined as DW1 and no documents were marked. After hearing both sides, the Trial Court dismissed the <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 petition with regard to the relieves under the provisions 18, 20, 21 and 22 of Protection of Women from Domestic Violence Act and awarded a sum of Rs.4,000/- per month towards residence under Section 19 of Protection of Women from Domestic Violence Act. With regard to the award of residence, the husband / 1st respondent has filed a Criminal Appeal before the III Additional District and Sessions Judge, Tiruchirappalli in Crl. A. No. 57 of 2018. The wife/petitioner has also filed an appeal before the III Additional District and Sessions Judge, Tiruchirappalli as against the dismissal order passed by the Trial Court on the other relieves in Crl. A. No. 63 of 2018. Both the appeals were heard together by the learned Appellate Judge and a common judgment has been passed.

6. During the pendency of the appeal in Crl. A. No.57 of 2018, the appellant therein, the husband/1st respondent herein, had filed a petition in Crl.M.P. No.129 of 2018 to receive the additional documents and the same along with Crl. A. No.57 of 2018 were dismissed by confirming the judgment passed in M.C. No.114 of 2014 dated 26.04.2018. The Crl. A. No.63 of 2018 was partly allowed by granting relieves mentioned as (a), (b),

(c) and (d), besides remitting back the case to the file of Judicial Magistrate, <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 Additional Mahila Court, Tiruchirappalli in respect of the relief mentioned as (e) alone.

7. As against the dismissal of the C.M.P. No.129/2018 and the Crl.

A. No.57 of 2018, the husband / 1st respondent Madurai Veeran, has preferred the Criminal Revision Petition in Crl. R.C. (MD) No.786 of 2019;

7.1. As against the Crl. A. No.63 of 2018 by partly allowing by granting the relieves mentioned as (a),(b),(c) and (d) besides remitting back to the Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in respect of the relief mentioned as (e) alone, the husband / 1st respondent Madurai Veeran has preferred the Criminal Revision Petition in Crl.R.C. (MD) No.311 of 2019; and 7.2. As against the order passed by the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in M.C. No.114 of 2014 and Crl.A. No.63/2018 by not allowing the relieves sought for under the provisions of 18, 20, 21 and 22 of Protection of Women from Domestic Violence Act and by partly allowing with grant of relieves mentioned as (a), <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019

(b), (c), and (d) besides remitting back the case to the Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in respect of the relief mentioned as (e) alone, the petitioner/wife has filed this Criminal Revision Petition in Crl.R.C.(MD) No.398 of 2019 before this Court.

8. Aggrieved over the above said judgments, the present revision petitions have been preferred by the petitioner and the respondents under the following grounds:-

8(i) Crl. R.C.(MD) No.398 of 2019 8(i)(a) The Judgment of the Appellate Court is contrary to law, weight of evidence and probabilities of the case.

8(i)(b) The Appellate Court failed to consider the right of the revision petitioner under Sections 17(1)(2) and 19(1)(a) of Domestic Violence Act as wife have a right to reside in a shared household and shall not be evicted or excluded from the shared household by the 1st respondent in accordance with the procedure established by law.

<https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 8(i)(c) The Appellate Court failed to consider Section 19(1)(b) and (c) of the Domestic

Violence Act to the extent that “a direction may be given to the 1st respondent / husband to remove himself from the shared household” and “restraining the 1st respondent / husband or any of his relatives from entering any portion of the shared household in which the aggrieved person / wife resides”.

8(i)(d) The Appellate Court failed to consider that “It is an admitted fact that the petitioner and the respondents 1 to 5 had lived in a shared household in the past, squarely bringing the 5th respondent also within the ambit of the Act.

8(i)(e) The Appellate Court failed to pass an order directing the Officer in charge of the nearest Police Station i.e., Thuraiyur Police Station to give protection to the revision petitioner / wife under Section 19(5) of the Protection of Women from Domestic Violence Act, 2005.

8(i)(f) The Appellate Court failed to consider the Ex.P.7 <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 causing violence to any person who give the aggrieved person assistance from Domestic Violence.

8(i)(g) The Appellate Court failed to consider the scope under Section 22 of the Protection of Women from Domestic Violence Act, 2005 and failed to consider Ex.P.1 and Ex.P.7 directing the 1st respondent to pay compensation and damages for the injuries including mental torture and emotional distress caused by the respondents.

8(i)(h) The Appellate Court failed to consider the scope under Section 20(1)(d) of the said Act that 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 or any other law for the time being in force.

8(i)(i) The Appellate Court failed to consider that in ordering the maintenance in addition to be paid under the <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 proceeding of another Act and there is no need to prove the fresh acts of the husband constituting domestic violence subsequent to the passing of the earlier order under Section 125 of Cr.P.C.

8(ii) CrI. R.C.(MD) Nos.311 of 2019 8(ii)(a). The order passed by the learned III Additional District and Sessions Judge, Tiruchirappalli is unsustainable in law and on facts and it is liable to be dismissed.

8(ii)(b) The order of the Appellate Court is based on mere surmises and conjunctures and when there is no proof for the commission of offence under Domestic Violence Act by the husband against his wife, granting relieves only on the sole ground that the findings given in Para 9 of the said order is liable to be set aside and thus the Appellate Court has committed a grave error of granting relieves under the Protection

of Women from Domestic Violence Act, 2005 and hence the same is liable to be set aside.

<https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 8(ii)(c) The Courts below ought not to have granted relief of payment of Rs.4,000/- towards rent as Ex.P.4, the property which was purchased by the petitioner with his self earned money and not by the 1st respondent's support or through her own income. In fact, the 1st respondent had no independent work or any private or public employment during her life time and hence she could not invest a single paise in purchasing the properties in respect of Ex.P.3 to Ex.P.5. The vital fact was not at all been appreciated by the Courts below, while passing orders and hence the same is liable to be dismissed.

8(ii)(d) The complaint lodged by the wife / 1st respondent against her husband / petitioner after 30 years of her marriage and no reliance is placed on the veracity of the complaint and the same is filed only with an intention to harass the respondents and for the illegal enrichment of the 1st respondent. No offence is committed by the petitioner under Domestic Violence Act at any point of time and hence the orders of the <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 Court below are liable to be set aside.

8(ii)(e) The Courts below failed to appreciate that in support of the contention raised by the 1st respondent, she did not file any iota of evidence.

8(ii)(f) The Courts below have passed the judgment like a Civil decree which is not permissible and hence the same is liable to be set aside.

8(iii) Crl. R.C.(MD) Nos.786 of 2019 The same grounds, raised in Crl. R.C. (MD) No.311 of 2019, are raised in this petition.

9. The learned counsel appearing for the revision petitioner in Crl. R.C. No. 398 of 2019 and the respondents in Crl. R.C. (MD) No.311 & 786 of 2019 would contend that the petitioner had filed a maintenance petition under Protection of Women from Domestic Violence Act and sought for relieves before the Trial Court and the Trial Court has awarded a sum of Rs. 4,000/- towards rent and dismissed the petition as against other relieves. <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 The marriage was solemnized between the petitioner/wife and the 1st respondent / husband in 1981 and thereafter, out of their wedlock, two children had born to them. After the marriage, the respondents have harassed the petitioner and excluded her from her marital home and thereby failed to maintain her. Therefore the petitioner had filed a maintenance case before the learned Chief Judicial Magistrate, Tiruchirappalli in M.C. No.8 of 2009 and the said petition was dismissed. Thereafter, the petitioner had preferred an appeal before the learned I Additional District Judge, Tiruchirappalli and the Appellate Court has awarded a sum of Rs.4,000/- per month and Rs.10,000/- per year as maintenance and the same was challenged before the Madurai Bench of this Court and this Court has set aside the order passed by the Appellate Court

and this case went upto the Hon'ble Supreme Court and the Hon'ble Apex Court without going into the merits of the case, had confirmed the order of the 1st Appellate Court and directed the 1st respondent / husband to pay a sum of Rs.4,000/- towards rent per month towards maintenance of the petitioner/wife.

9.1. Thereafter, the petitioner/wife filed an another application before the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 M.C. No.114 of 2014 sought for relieves under Sections 12, 18, 19, 20 and 22 of Protection of Women from Domestic Violence Act, 2005. The Trial Court dismissed the relieves under the provisions 12, 18, 20 and 22 whereas awarded a sum of Rs.4,000/- per month towards maintenance of the petitioner under Section 19 of the said Act. As against the said order of dismissal with regard to the relieves under Sections 12, 18, 20 and 22 of Protection of Women from Domestic Violence Act, the petitioner/wife has filed an appeal before the III Additional District and Sessions Court, Tiruchirappalli in Crl. A. No.63 of 2018 and the Appellate Court has confirmed the order with regard to the maintenance and partly allowed the appeal in respect of the other relieves by modifying and remanding the case with some directions.

9.2. The Crl. A. 63/2018 was partly allowed by granting relieves mentioned above as (a) to (d) besides remitting back the case to the file of learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli directing the parties to appear before the learned Judicial Magistrate, Additional Mahila Court, Trichy and directed the 1st respondent herein / husband, to file an affidavit before the learned Magistrate disclosing the <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 total amount of rent/profit received by him/accrued to him, in respect of the property covered under Ex.P.3 and Ex.P.4 from November 2008 till December 2018 so as to arrive at the damages to be payable by him to the petitioner, wife of the 1st respondent. But the trial Court failed to award for other relieves. The learned Magistrate was further directed to conduct an enquiry, regarding the damages payable in this regard by the 1st respondent / husband to the petitioner / wife.

9.3. As per Section 17 of the Act, the petitioner is entitled to reside in the shared-household and she shall not be evicted or excluded from the shared-household. As per Section 19(1)(f) of the Act , the 1st respondent has to be directed to secure some level of alternate accommodation and living of the aggrieved woman in the shared-household must have a decree of permanence and further the Trial Court has failed to state reasons as to how the quantum of Rs.4,000/- was arrived for the residence. The Trial Court failed to consider the Police Protection order under Section 19(5) of the Act. The Trial Court dismissed the claim application for the additional claim of maintenance under Section 20(1)(d), (2) and (3) of the Act by holding that the petitioner had not proved any domestic violence after filing <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 of maintenance petition under Section 125 of Cr.P.C., but it was pleaded and proved by the petitioner that her husband made a false complaint against her and her Advocate so as to remove the Advocate from her case which constitute domestic violence. Further, the petitioner has filed written arguments and the same was also perused by this Court.

10. The learned counsel appearing for the petitioner in Crl. R.C. (MD) Nos.311 and 786 of 2019 and the respondent in Crl. R.C.(MD) No. 398 of 2019 would contend that wife / 1st respondent in Crl. R.C. (MD) No. 311 of 2019 had filed a false case by suppressing the previous complaint filed in M.C. No.8 of 2009 and the above said case went upto the Hon'ble Supreme Court and the Hon'ble Supreme Court without going into the merits of the case, awarded a sum of Rs.4,000/- per month and Rs.10,000/- per year towards maintenance. The maintenance awarded by the Appellate Court was not disturbed by the Hon'ble Apex Court and thereby, the petitioner herein has to pay a sum of Rs.4,000/- as per the order passed in M.C. No.8 of 2009. By suppressing the above said previous case, now this petition has been filed in M.C. No.114 of 2014 with false allegations. The Trial Court, without considering the previous complaint, awarded a sum of <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 Rs.4,000/- towards rent for residence. As far as the other relieves are concerned, the Trial Court has dismissed the application. The Appellate Court has reversed the judgment of the Trial Court in respect of the relieves declined to the wife / 1st respondent. The Appellate Court failed to consider that already the matter went upto the Hon'ble Supreme Court and the Hon'ble Apex Court has directed to pay only the maintenance amount of Rs. 4,000/- and thereafter, there is no domestic relationship between the parties and thereby, the act of Domestic Violence would not attract. Both the Courts have not considered the same.

10.1 The revision petitioner has filed Crl. M.P. No.129 of 2018 in Crl. A. No.57 of 2018 to receive the certified copies of the order passed in respect of these proceedings, but the Appellate Court wrongly held that there need not be any additional evidence and the Court can take judicial notice of the order passed by the Court and for that purpose, there need not be no additional evidence, it would only delay the disposal of the appeals.

10.2 The main prayer in the petition seeking relieves under Domestic Violence Act is that as against the respondents 1 to 5, the case has to be registered under the provisions of Indian Penal Code and Sreedhana articles <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 have to be returned to the petitioner. Further the case has to be registered as against the respondents under Sections 406 and 420 of IPC and also to return back the jewels and a sum of Rs.4 lakhs to the petitioner and Rs. 10 lakhs has to be ordered for compensation and police protection to be given. These are all the prayers. But the learned Magistrate has held that the petitioner was not proved any domestic violence and no order can be passed under Section 18 of the Act and further held that the husband failed to prove his wife had voluntarily deserted the husband and hence the husband is liable to pay Rs.4,000/- towards rent for the wife for her residence. The Trial Court has held that already a sum of Rs.4,000/- towards monthly maintenance was ordered apart from the payment of Rs.10,000/- towards the annual maintenance amount and the Hon'ble Apex Court has also restored the order of the learned Additional Sessions Judge and hence no order could be passed for further amount under Section 20 of the Act as the wife has not proved any change of circumstances and further the Trial Court held that the wife had not proved any cruelty and hence there cannot be any order under Section 22 of the Act. But the Appellate Court without considering the evidences adduced in M.C. No.8 of 2009 and the order passed by the Hon'ble High Court and the Hon'ble Supreme Court, has modified the order <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 of the Trial Court.

10.3. The wife has made serious defamatory allegations against the husband that he married a woman in Kerala and he has been having adulterous relationship with his brother's wife, who is the 5th respondent. From 1994 onwards, the husband has been causing cruelty to his wife by keeping illicit relationship with his brother's wife and by marrying a woman in Kerala. The wife was scolded and beaten by the husband, when she questioned her husband for the illicit relationship. But the above said allegations have not been proved by the petitioner/wife in the earlier litigation. Whereas the husband / 1st respondent gave a complaint in Jeeyapuram Police Station on 23.10.2018 that his wife had taken the jewels and money without his knowledge and when the wife gone back to the house, the husband and his relatives refused to permit her to get into the house and hence the petitioner/wife gave a complaint before Thuraiyur Police Station, but they refused to receive her complaint. From the above said facts, it is clear that cruelty for the wife started in 1994 but the complaint was lodged in the year 2008. That too after the complaint given by her husband. Further this complaint was lodged after 14 years and the <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 same has not been properly explained by the complainant. The present complaint was lodged after the order passed by the Hon'ble Supreme Court. The learned Additional Sessions Judge stated that the wife was subjected to cruelty because of the complaint given by the husband in Jeeyapuram Police Station against his wife that she had stolen her jewels and attempted to murder him and had withdrawn subsequently and further held that, the wife was prevented from enjoying the properties marked under Ex.P.3, Ex.P.4 and E.P.5 and that amounts to domestic violence. But in the complaint there is no reference about the above said allegation. No pleadings in her complaint with regard to the above said aspects. Further a civil suit is also pending with regard to the above said properties before the Sub Court, Thuraiyur. Without considering the above said aspects, the Appellate Court has passed the impugned judgment.

10.4. Further, the learned I Additional District Judge passed an order restraining the husband from alienating the property marked under Ex.P.5, as if it is the shared household when the wife herself has admitted that she voluntarily had gone to live with her mother from October to November 2008 onwards. Once the Court ordered for a sum of Rs.4,000/- towards residence, then once again, for the shared household, the husband is <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 injuncted from alienating the property under Ex.P.5 is not permissible. Therefore, the learned Additional Sessions Judge has granted relieves beyond the scope and prayer of the complainant. The dispute had arisen between the parties from the year 1994 itself. Protection of Women from Domestic Violence Act came into effect in the year 2005. Thereby, the petitioner is not entitled to get any relief through the Domestic Violence Act. Therefore the orders passed by the Appellate Court is liable to be set aside. Hence the Criminal Revision Petition Nos.311 of 2019 and 786 of 2019 are liable to be allowed and the Criminal Revision Petition No.398 of 2018 is liable to be dismissed.

11. Heard both sides and perused the entire materials available on record, the Judgments passed by the Courts below and the grounds of revision.

12. Now the points for determination in these Revision Petitions in 13(a) CrI.R.C.(MD) No.398 of 2019 is whether the judgment passed in CrI. A. No.63 of 2018 on the file of the learned III Additional District <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019

and Sessions Judge, Tiruchirappalli dated 04.02.2019 in respect of denying the relieves under Sections 18(a)(b)(f), 19(1)(a)(c) & (5) and 20(1)(d) and Sections 2 & 3 of the Protection of Women from Domestic Violence Act 2005, are sustainable in law and on facts.

13(b) Crl. R.C.(MD) No.311 of 2019 is whether the judgment passed in Crl. A. No.63 of 2018 with regard to the modification of other relieves and confirming the order of maintenance is sustainable in law and on facts.

13(c) Crl. R.C.(MD) No.786 of 2019 is whether the order passed in Crl. A. No.57 of 2018 with regard to the dismissal of Crl.M.P. No.129 of 2018 and dismissal of Crl. A. No.57 of 2018 by confirming the judgment passed in M.C. No.114 of 2014 dated 26.04.2018 by the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, is sustainable in law and on facts.

14. Points:- These Criminal Revision petitions have been arising out the same common order passed in Crl.M.P. No.129/2018 in Crl. A. No.57/2018, Crl. A. No.57/2018 and Crl. A. No.63/2018. <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 14.1. In fact, in the Trial Court, the petitioner/wife has filed a case in M.C. No.114 of 2014 as against the respondents under the provisions of Domestic Violence Act for the relieves of registration of case as against the respondents 1 to 5 under provisions of IPC and under the provision of Dowry Prohibition Act and to return the jewels and Sreedhana articles, and register a case as against Vaidyanathan under Sections 406 and 420 of IPC and to direct the respondents 1 to 5 to repay Rs.4 lakhs and to pay Rs.10 lakhs as compensation and for police protection.

15. The petitioner/wife's contention is that the 1st respondent is her husband, 2nd respondent is his mother, 3rd and 4th respondents are the Sister and brother of the 1st respondent respectively and the 5th respondent is the wife of the 4th respondent. The marriage between the petitioner and the 1st respondent was solemnized on 30.10.1981 at Woraiyur. At the time of marriage, the parents of the petitioner/wife had provided 40 sovereigns of gold, 2 kgs of silver articles, brass and ever-silver household articles. After the marriage, the petitioner lived in Thuraiyur along with the respondents 1 to 4 till 1994. Thereafter the respondents caused cruelty to the petitioner. In the year 1994, the 4th respondent married 5th respondent. Thereafter also, <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 all the respondents caused cruelty to the petitioner/wife. The 1st respondent had illicit intimacy with the 5th respondent. Also the 1st respondent had illicit relationship with a lady belongs to Kerala. The 1st respondent did not care about the petitioner as well as her children. Thereafter, the 1st respondent gave a complaint before the Jeeyaparam Police Station on 23.10.2008. The petitioner was examined by the police. Thereafter, when the petitioner went to her matrimonial home, all the respondents together, did not allow her to enter into the house. Thereafter, the petitioner/wife gave a complaint before the Thuraiyur Police Station and the police refused to receive the complaint. Thereafter the petitioner was living with her mother and the respondents refused to return back her sreedhana articles. Thereafter she filed a maintenance petition before the learned Chief Judicial Magistrate, Tiruchirappalli. Thereby the respondents are liable to be prosecuted under the provisions of Domestic Violence Act.

16. The respondents denied the above said averments and their contention is that already the same petitioner filed the maintenance petition in M.C. No.8 of 2009 on the file of Chief Judicial Magistrate, Trichy and the same was dismissed and thereafter, the petitioner preferred appeal <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 before the I Additional District Court, Tiruchirappalli and the Appellate Court allowed the appeal and awarded a sum of Rs.4,000/- per month towards maintenance and also awarded a sum of Rs.10,000/- per year. As against the said judgment, the husband filed a revision and the same was allowed by setting aside the judgment of Appellate Court and then it went upto the Hon'ble Supreme Court and the Hon'ble Apex Court directed the 1st respondent to pay a sum of Rs.4,000/- as maintenance to the petitioner by restoring the order of Appellate Court. There was no any occurrence happened as alleged by the petitioner. In order to prove the case of the petitioner, she examined herself as PW1 and Ex.P.1 to Ex.P.7 were marked. Based on the evidence and documents, the Trial Court has awarded only with regard to the residential relief and directed to pay a sum of Rs.4,000/- towards rent. With regard to all other relieves, the Trial Court has dismissed the application.

17. Before the Trial Court, PW1 has filed a proof affidavit by stating the allegations as made in the complaint. PW1 has stated, in her proof affidavit, about the properties purchased by the 1st respondent by alleging that her jewels were sold and the properties were purchased. But there is no <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 pleadings in the petition with regard to the above said purchase of properties and about the selling of jewels. Further, the same PW1 in her cross examination, has admitted that “vdJ ,uz;L kfs;fSf;Fk; cjtp bra;tjw;fhf vdJ jfg;gdhu; vdf;Fr; rPjdkhff; bfhLj;j eiffis itj;jpaehjdplk; mlF itj;J cjtp gz;zpndd;/ jpUkzj;jpwF ; Kd;ng vdJ eiffis mlF itj;J cjtp gz;zpndd;/ itj;jpaehjd; vd;d bra;jhu;

vd;why; ,e;j nfs;tpf;F rhL;rp mikjpahf ,Ue;jhu;/

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itj;jpUe;njd;/ me;j eifia kPl;gjw;F vdJ jfg;gdhu; rPjdkhff; b

eifia tpwW ; U:/4.00.000/-I itj;jpaehjdplk; bfhLj;

gzj;ija[k; vd;d bra;jhu; vd;why; rhL;rp gjpy;

mikjpahf ,Ue;jhu;/ itj;jpaehjd; nky; eifiaa[k.; gzj;ija[k;

bfhz;L jpUg;gpf; bfhLf;f khl;nld; vd;fpwhu; vd;W 16/08/2014Mk; njjpad;W nf/nf/efu; fhty; epiyaj;jpy; g[fhu; bfhLj;jpUe;njdh vd;why; vdJ fztu; ilg; gz;zp g[fhu; mDg;gpa[s;shu;/ ehd; mDg;gtpy;iy”. Further PW1, in her cross examination, has stated that “56 gt[d; eif jpUg;gpf; fpilj;jjh vd;why;. U:/4.00.000/- gzk; jpUg;gpf; fpilj;jjh> vd;why; itj;jpaehjdplnk cs;sJ/ eifiaa[k.; gzj;ija[k; jpUk;gf; bfhL vd;W nfl;Ou;fsh vd;why; Kjypy; nfl;oUe;njd;/ vdJ fztUila tPl;oy; ,Ue;j nghJ vdJ eifia[k.; <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 gzj;ija[k; jpUg;gpf; bfhL vd;W nfl;nld;/ mtu; jpUg;gpf; bfhLf;ftpy;iy/ mjw;Fg; gpwF itj;jpaehjdplk; eifiaa[k.; gzj;ija[k; nfl;ftpy;iy/ mtu; bgaupy; eifiaa[k.; gzj;ija[k; jpUg;gpf; bfhLf;Fk;go g[fhu; vJt[k; bfhLf;ftpy;iy”. Therefore, from the evidence of PW1, it is clear that she has pledged the jewels with

one Vaidyanathan and in order to redeem the pledged jewels, again she had given Rs.4 lakhs to the said Vaidyanathan. While so, the question of repayment of Rs.4 lakhs by the respondents and return of jewels would not arise. There is no evidence that the jewels were in the custody of the 1st respondent and there were litigations pending between the parties from the year 2009 itself and the pleadings or evidence as to the description of jewels. Therefore the petitioner failed to prove her case with sufficient evidence.

18. As far as the relieves sought for by the petitioner is concerned, the relief is only with regard to the registration of the case against the respondents and with regard to the return of jewels and Sreedhana articles and to pay damages of Rs.10,00,000/- as against 1 to 5 respondents, another Rs.10,00,000/- for other relieves, residential order and protection and to register the case under Section 406 and 420 of IPC as against 6th respondent <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 and repayment of Rs.4 lakhs. There is no reference above the particulars of sreedhana articles and the allegations as against the respondents are also not specific and only vague allegations.

19. As far as the Domestic Violence is concerned, nowhere the petitioner has stated anything about the domestic violence in the complaint. Even according to the petitioner, she was residing with the respondents till 25.10.2008. Thereafter she is living at her mother's home. The petitioner has nowhere stated in the pleadings about the sharing of house and purchase of properties by selling the jewels. The petitioner has filed proof affidavit without pleadings in the petitioner. In the proof affidavit, it is stated that the petitioner purchased a house near the house of the 1st respondent by selling her jewels and the respondents 1 to 5 refused to handover the said property to the petitioner. The 1st respondent had purchased the property by selling the jewels of the petitioner in the name of the 5th respondent and the petitioner. The 5th respondent alone is receiving the rent from the said property and refused to give half share of the rent to the petitioner. Further, the respondents refused to return back the Sreedhana articles given by the petitioner to the respondents. Further, the respondents have to pay a sum of <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 Rs.10,00,000/- as damages and the 1st respondent is liable to share the house to the petitioner, but there is no pleading in the petition with regard to sale of jewels and purchase of property and occupation and rent. In the proof affidavit, prayer in respect of rent and sharing of house were added without pleadings and prayer in the petition.

20. In respect of domestic violence, the prayer is only towards compensation of Rs.10 lakhs and police protection. Already the same petitioner has filed a case in M.C. No.8 of 2009 under Section 125 of Cr.P.C. for maintenance and the same was dismissed by the learned Chief Judicial Court, Tiruchirappalli. Aggrieved by the said order, an appeal had been preferred by the petitioner/wife and the Appellate Court has also awarded a sum of Rs.4,000/- towards maintenance and the same was set aside by the Madurai Bench of this Court and thereafter the case went upto the Hon'ble Supreme Court. As per the order of the Hon'ble Apex Court, the order of Appellate Court was restored and the petitioner was entitled to a sum of Rs.4,000/- per month and Rs.10,000/- per year towards maintenance. It is an admitted fact that the petitioner is separately residing from the year 2008. While so, the petitioner has not filed any complaint till the year 2014 <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 and already filed a

petition under Section 125 of Cr.P.C. and the same went up to Hon'ble Supreme Court and Rs.4,000/- as maintenance per month and Rs.10,000/- per year was ordered. Therefore, the Trial Court, after taking into consideration all the aspects, has awarded a sum of Rs.4,000/- on sympathetic ground and by holding that the 1st respondent / husband failed to prove that the wife / petitioner was living separately without any valid reason and thereby, awarded a sum of Rs.4,000/- for her residence and dismissed with respect to other relieves.

21. In this aspect, the Trial Court has elaborately discussed about the other aspects and rightly declined to grant other relieves. Though the petitioner has not pleaded with regard to the order for residence, the Trial Court has awarded a sum of Rs.4,000/- on sympathetic ground. Considering the cost of living and nature of the case, this Court do not want to interfere with the order of the trial court with regard to the order of residence to pay Rs.4,000/- towards rent without any specific pleadings. In fact already the Hon'ble Supreme Court awarded a sum of Rs.4,000/- per month and Rs. 10,000/- per year, while so the petitioner wife ought to have filed petition for enhancement of the maintenance amount already awarded as above. It is <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 well settled law that there is no bar to file petition under provisions of Domestic Violence Act, since the order passed under Section 125 of Cr.P.C. is interim in nature and the Domestic Violence Act is supplant to 125 Cr.P.C. and Hindu Marriage Act. Further the petitioner need not go once again to the Court to seek remedy for enhancement of award amount.

22. The Appellate Court without considering the pleadings and prayer of the petitioner in M.C. No.114 of 2014, has gone beyond the pleadings and cannot order with regard to the properties rent. According to the respondents, the 1st respondent / husband has already filed a suit in O.S. No.224 of 2015 and the same is pending before the Sub Court, Thuraiyur and only the competent Court has to decide the rights of the parties with regard to the properties when the Civil Suit is pending before the Civil Court. But the Appellate Court has passed order with regard to the properties without any specific prayer and without considering the pendency of suit. Further, the Appellate Court has wrongly remanded the case to Trial Court and directed the parties to appear before the learned Magistrate concerned for deciding the compensation. First of all, according to the petitioner, from the year 2008 itself, she is residing along with her mother <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 and already the matter went upto the Hon'ble Supreme Court in respect of maintenance. The Hon'ble Apex Court has also ordered by restoring the award of Rs.4,000/- per month and Rs.10,000/- per year towards maintenance. Without considering the same, the Appellate Court has passed injunction order by restoring the 1st respondent from alienating the property and directed to share the rent and ordered the parties to appear before the learned Magistrate and remitted back the case for deciding compensation.

23. The Appellate Court has also held that lodging of complaint as against the wife by the husband itself constitutes Domestic Violence under the provisions of Domestic Violence Act. But on careful perusal of the evidences and documents, they would show that the petitioner herself admitted that she only has pledged the jewels with one Vaidyanathan and thereafter she has also paid a sum of Rs.4 lakhs to the said Vaidyanathan and she has received back neither the jewels pledged with him nor the amount paid by her for redeeming the pledged jewels. She has also not taken any steps to get

back the jewels and amount of Rs.4 lakhs. Thereby, the 1st respondent has given complaint and thereafter it was withdrawn. Mere lodging of complaint itself is not sufficient to constitute the Domestic <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 Violence under the Domestic Violence Act. Therefore, the Appellate Court has wrongly come to a conclusion without any specific pleadings and prayer. Since there is no evidence with regard to the Domestic Violence, the Appellate Court cannot go to the extent of awarding of particular injunction order as against the respondents with regard to the properties. Therefore, the order of Appellate Court is not sustainable.

24. As far as the revision petition filed by the wife with regard to the other relieves except residential order is concerned, the petitioner has failed to prove the domestic violence, but however, the Trial Court has awarded a sum of Rs.4,000/- for her residence and thereby, there is no merits in this application and the revision petition filed by the petitioner /wife is liable to be dismissed.

25. The learned counsel appearing for the Revision Petition in CrI.R.C.(MD) No.398 of 2019, has relied judgments in :

25.1. Prabhatyagi v. Kamlesh Devi reported in 2022 (2) MWN (Cr.) 17 (SC).

<https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019

- wherein it is held that “ Right of Women to reside in “Shared-

Household” – Conferred on every woman in Domestic relationship as per Section 17(1) – However, Section 17(2) protects an Aggrieved Person from being evicted or excluded from Shared-Household. Therefore, salutary object of Section 17(1) is to confer a right on every woman in Domestic relationship to reside in Shared Household even in absence of any act of Domestic Violence” 25.2. Rajnesh v. Neha and another reported in (2021) 2 Supreme Court Cases 324.

- wherein it is held that “Maintenance granted to an aggrieved person under the Domestic Violence Act, would be in addition to an order of maintenance under Section 125 of Cr.P.C. or under the Hindu Marriage Act”.

25.3. Vandhana v. T. Srikanth and Krishnamachari reported in 2007 (5) CTC 679.

- wherein it is held that “Right to live in “Shared-Household' co-exists with woman's right to live in “Shared-Household” and it does not depend upon whether she had marked her physical presence in “Shared Household” or not”.

In the case on hand, there is no evidence to prove the Domestic <https://www.mhc.tn.gov.in/judis> CrI.R.C.(MD) Nos.398, 311, and 786 of 2019 Violence. However, the Trial Court has awarded a sum of Rs.4,000/- towards rent for her residence.

Therefore, as per the judgments relied on by the learned counsel appearing for the petitioner/wife in Crl. R.C.(MD) No.398 of 2019, the Trial Court has awarded a sum of Rs.4,000/- towards rent and the Appellate Court has also confirmed the said order and therefore, this Court also confirmed the order with regard to the rent for residence.

26. The learned counsel appearing for the petitioner in Crl.R.C. (MD) No.398 of 2019 has also relied on a judgment in Kunha Y Ammed and others v. State of Kerala and another reported in (2000) 6 Supreme Court Cases 359 .

wherein it is held that “Doctrine of merger is merely a common law doctrine based on principles of propriety in the hierarchy of judicial system and it postulates merger of the subordinate forum's decision in the decision of the appellate or revisional forum modifying, reversing or affirming such decision. Thereafter only the latter and not the former exists in the eye of law”.

In this case on hand, there is no dispute with regard to the orders <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 passed by the Courts and thereby, the above said case law is noway applicable to decide this case in favour of the petitioner.

27. As far the revision petition filed by the 1 st respondent in Crl.R.C. (MD) No.311 of 2019 is concerned, though the Trial Court has awarded a sum of Rs.4,000/- as residence, already this Court discussed the previous para considering the nature of the petition and cost of living, the order of rent for residence of Rs.4,000/- as against the 1st respondent is reasonable and the same is to be confirmed. As far as the other relieves are concerned, the Appellate Court has ordered by directing the petitioner/husband herein to restrain from receiving the half share of rent in respect of the property covered under Ex.P4, by directing the 5th respondent to pay the half share of rent to the 1st respondent herein / wife in respect of the property covered under Ex.P.4, to restrain the petitioner / husband herein from alienating, disposing off or encumbering the shared house hold covered under Ex.P.5 without the leave of the learned Magistrate and remitted back the case to the file of learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli by directing the parties to appear before the learned Judicial Magistrate, Additional Mahila Court, Trichy and directed the petitioner/husband herein, <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 to file an affidavit before the learned Magistrate disclosing the total amount of rent received by the petitioner herein in respect of the property covered under Ex.P.3 and Ex.P.4 from November 2008 till December 2018 so as to arrive at the damages to be payable by him to the 1 st respondent / wife. Already this Court discussed in previous paras and thereby, the order to that aspect, the order of the Appellate Court is liable to set aside.

28. The learned counsel appearing for the revision petitioners in Crl R.C. (MD) Nos.311 of 2009 and 786 of 2009 has relied upon the following judgments in:

28.1. Deb Narayan Halder v. Smt. Anushree Halder reported in AIR 2003 SC 3174 -

- wherein it is held that “the wife having left her matrimonial home without any justifiable ground is not entitled to the grant of maintenance”.

But in this case on hand, already the matter went upto the Hon'ble Supreme Court with regard to the maintenance under Section 125 of Cr.P.C. and the order awarding Rs.4,000/- for maintenance was confirmed by the Hon'ble Supreme Court and thereby the above said case law will not be <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 helpful to decide the case in favour of the petitioner/1st respondent.

28.2. Kamlesh Devi and Jaipal and others reported in Special Leave Petition ..Diary No.34053 of 2019 – Wherein, our Hon'ble Supreme Court has held that “in the absence of ingredients of Domestic Violence, the petitioner and the respondents are not the persons living together in a shared-

household and therefore provisions of Domestic Violence Act cannot be invoked”.

29. As far as the revision as against the confirmation of award of residential order is concerned, this Court has already decided supra that the award passed by the Trial Court need not be interfered with.

30. In view of the above discussions, this Court is of the opinion that, Crl.R.C. (MD) Nos.398 of 2019 and 786 of 2019 are liable to be dismissed and 30.1. Crl.R.C. (MD) No.311 of 2019 is liable to be allowed partly by setting aside the order passed by the Appellate Court in Crl. A. No.63 of 2018 with regard to the directions to the petitioner/husband herein to <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 restrain from receiving the half share of rent in respect of the property covered under Ex.P4; direction to the 5th respondent to pay the half share of rent to the petitioner in respect of the property covered under Ex.P.4, to restrain the 1st respondent herein from alienating, disposing off or encumbering the share house hold covered under Ex.P.5 without the leave of the learned Magistrate, further the order of remitting back the case to the file of learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli by directing the parties to appear before the learned Judicial Magistrate, Additional Mahila Court, Trichy and directed the 1st respondent herein, to file an affidavit before the learned Magistrate disclosing the total amount of rent received by the petitioner herein in respect of the property covered under Ex.P.3 and Ex.P.4 from November 2008 till December 2018 so as to arrive at the damages to be payable by him to the petitioner, wife of the 1 st respondent and by confirming the order to the payment of Rs.4,000/- per month to the 1st respondent/wife of the petitioner towards rent for her residence.

31. In the result, □the Criminal Revision Petition in Crl.R.C.(MD) No.786 of <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 2019 is dismissed and the judgment passed by the learned III Additional District and Sessions Judge, Tiruchirappalli in Crl. A. No.57 of 2018 dated 04.02.2019 and the order passed in M.C. No.114 of 2014 on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli dated 26.04.2018 are hereby confirmed.

□Criminal Revision Petition in Crl.R.C. (MD) No.398 of 2019 is dismissed and the judgment passed in Crl.A. No.63 of 2018 by the learned III Additional District and Sessions Judge, Tiruchirappalli dated 04.02.2019 in respect of dismissing the relieves to the petitioner under Sections 18(a)(b)(f),

19(1)(a)(c) & (5) and 20(1)(d), (2) & (3) of the Protection of Women from Domestic Violence Act 2005 and the order passed by the learned Judicial Magistrate / Additional Mahila Court, Trichy in M.C. No.114 of 2014 dated 26.04.2018 in respect of dismissal of claims are hereby confirmed.

□Criminal Revision Petition in Crl.R.C.(MD) No.311 of 2019 is <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 partly allowed and the judgment passed in Crl.A. No.63 of 2018 dated 04.02.2019 with regard to the directions □(a) to the petitioner/husband herein to restrain from receiving the half share of rent in respect of the property covered under Ex.P4; (b) direction to the 5th respondent to pay the half share of rent to the petitioner in respect of the property covered under Ex.P.4, (c) to restrain the 1st respondent herein from alienating, disposing off or encumbering the share house hold covered under Ex.P.5 without the leave of the learned Magistrate and (e) the order of remitting back the case to the file of learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli by directing the parties to appear before the learned Judicial Magistrate, Additional Mahila Court, Trichy and directed the 1st respondent herein, to file an affidavit before the learned Magistrate disclosing the total amount of rent received by the petitioner herein in respect of the property covered under Ex.P.3 and Ex.P.4 from <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019 November 2008 till December 2018 so as to arrive at the damages to be payable by him to the petitioner, wife of the 1st respondent, are set aside and □the relief granted by the Appellate Court in respect of resident order (d) directing the petitioner/husband to pay a sum of Rs.4,000/- per month to the 1st respondent/wife of the petitioner, towards rent for her residence, by confirming the order of the Trial Court in M.C. No.114 of 2014 on the file of learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli dated 26.04.2018 is confirmed.

32. Consequently, the connected miscellaneous petitions are closed.

10.11.2023 Index : Yes / No Internet : Yes / No Neutral Citation Case :Yes/No mjs To <https://www.mhc.tn.gov.in/judis> Crl.R.C.(MD) Nos.398, 311, and 786 of 2019

1. The III Additional District and Sessions Judge, Tiruchirappalli.

2. The Judicial Magistrate, Additional Mahila Court, Tiruchirappalli.

P.DHANABAL., J.

mjs Crl.R.C.(MD) Nos.311, 398 and 786 of 2019 10.11.2023 <https://www.mhc.tn.gov.in/judis>