

(2013) 09 KAR CK 0194
In the Karnataka High Court
Case No : Criminal Petition No. 6495 of 2009

Mr. Vijay Raj

APPELLANT

Vs

Smt. Santhosh Jain and Baby Mehak

RESPONDENT

Date of Decision : 06-09-2013

Acts Referred:

Protection of Women From Domestic Violence Act, 2005 — Section 12, 23

Citation : (2013) 09 KAR CK 0194

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : T.S. Mahantesh, for the Appellant; Gopal Singh, for the Respondent

Final Decision : Dismissed

Judgement

H.S. Kempanna, J.—The present petition has been filed by the petitioner challenging the orders of the Court below awarding maintenance of Rs. 5,000/- to the respondents, who are the wife and daughter of the petitioner. The respondents, who are the wife and daughter of the petitioner, filed a petition u/s 12 of the Protection of Women from Domestic Violence Act, 2005, praying for certain reliefs under the Act including monthly maintenance amount. In the said proceedings, they filed an application u/s 23 of the said Act praying for grant of monthly interim maintenance of Rs. 15,000/- and also to pay an amount of Rs. 2,50,000/- for the purpose of deposit for the home and school admission and for buying household articles. The said application was opposed by the petitioner/husband.

2. The learned Magistrate on considering the entire material on record came to the conclusion that the petitioner being a business man carrying on pawn broker business is capable of maintaining his wife and daughter and accordingly, by the order dated 03.9.2009 awarded an interim maintenance of Rs. 10,000/- p.m. by allowing the said application filed by the respondents.

3. Being aggrieved of the said order the petitioner filed Criminal Revision Petition

No. 436/2009 before the Sessions Judge, Bangalore City, who by his order dated 4.12.2009 partly allowed the said revision and modified the interim maintenance awarded to the respondents/wife and daughter to a sum of Rs. 5,000/-.

4. The petitioner/husband being aggrieved of the said modified order awarding Rs. 5,000/- per month as interim maintenance to the respondents has filed the present petition.

5. Learned counsel for the petitioner contended that the petitioner does not have any income of his own. According to him, the wife has married him against her wishes and therefore, the petitioner is not entitled to pay any maintenance as ordered by the Courts below.

6. On the other hand, learned counsel for the respondents supported the impugned order passed by the Revisional Court. The jural relationship between the petitioner and the respondents is not disputed. The marriage of the petitioner with the first respondent took place on 22.2.2002. After the marriage, they have begotten the second respondent. The petition u/s 12 of the Domestic Violence Act has been filed by the respondents before the learned Magistrate on 12.3.2009 nearly about 9 years after the marriage. The grievance of the respondents is that they have no source of their own to maintain themselves, on the other hand, they have been driven out of the residential house without making any provision for their maintenance including shelter. The learned Magistrate on consideration of the entire material on record awarded a sum of Rs. 10,000/- per month as interim maintenance. However, the learned Sessions Judge has modified the said amount to Rs. 5,000/-. In my view, having regard to the material now on record, which discloses that the petitioner/husband, who is well placed in life carrying on pawn broker business in gold jewellery, is capable to pay the amount as ordered by the learned Magistrate. The said amount in my view having regard to the status of the parties is also too meager in these days for maintenance of the respondents. However, in revision the said amount awarded by the Magistrate has been modified to Rs. 5,000/- p.m. The respondents have not chosen to file any petition seeking for enhancement of the amount. In that view of the matter, having regard to the material on record, I do not find any justification to interfere with the order that is now been passed in revision by the petitioner calling for interference. Accordingly, there is no merit in the petition and it is dismissed.