



IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH

DATED THIS THE 7TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 200071 OF 2016 (397)

BETWEEN:

1. SUNIL KUMAR S/O SAMUEL AND ORS
2. GOPEMMA W/O SAMUEL
3. SAMUEL S/O NAGAPPA
4. SUNITA W/O LATE NAVEEN KUMAR
5. ANIL KUMAR S/O SAMUEL

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NAGAVENI
Location:
High Court
of
Karnataka

...PETITIONERS

(BY SRI. AVINASH A UPLOANKAR AND RAVI K ANOOR, ADVS.)

AND:

ELIZABETH W/O SUNIL KUMAR



...RESPONDENT

(BY SRI. MANURE ASHOK KUMAR, ADV.)

THIS CRL.RP IS FILED U/S 397 R/W 401 OF CR.P.C., PRAYING TO, SETASIDE THE IMPUGNED ORDER DATED 26.08.2016 PASSED IN CRL. APPEAL No.50/2015 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BIDAR, THEREBY DISMISSING THE CRIMINAL APPEAL FILED BY THE PETITIONERS HEREIN AND MODIFYING THE ORDER DATED 20.11.2015 PASSED BY THE PRINCIPAL CIVIL JUDGE AND JMFC-II AT BIDAR, IN CRL.MISC. No.1279/2013 FILED BY THE RESPONDENT HEREIN, THE INTEREST OF JUSTICE AND EQUITY.

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

ORDER

After hearing for some time, the learned counsel for the Revision Petitioners has filed a Memo, which reads as under:

"That, the parties/Revision petitioners herein undertake to pay the maintenance amount of Rs.6,000/- per month as per the order of the Trial Court and further undertakes to pay as additional amount for alternate accommodation to the tune of Rs.5,000/-. The same be kindly accepted and made part of the record.

Hence, this Memo."

2. The relief sought for in the main petition, is also incorporated in the Memo.

3. As per Section 19(1)(f) of the Protection of Women from Domestic Violence Act, 2005 [in short '**DV Act**'], wherever the Court feels convenient to order for monetary expenses in



lieu of the shared house and also taking note of the relationship existing among the parties, a suitable order can be passed in terms of money.

4. In the impugned order, the learned Trial Magistrate after exercising discretionary power granted a sum of Rs.6,000/- as monthly maintenance and a room be given by the Revision Petitioner in the shared house.

5. Admittedly, the Revision Petitioner No.1 is the husband of the respondent. However, the Revision Petitioner is living with first wife. Taking note of these aspects of the matter directing the respondent to stay in the same house in a separate room would not be feasible practically and it may give rise to further displeasure among the parties resulting in civil/criminal litigation.

6. Accordingly, this Court exercising its power as is contemplated under Section 19(1)(f) of the DV Act, a sum of Rs.5,000/- be paid instead of the room be provided as the shared house. If a sum of Rs.5,000/- is being ordered, the respondent can find out a suitable alternate premises more than the room that would be provided in the shared house hold



as ordered by the Trial Court, it would meet the ends of justice.

Accordingly, following order is passed:

ORDER

(i) The Criminal Revision Petition is allowed in part.

(ii) While maintaining the order of the learned Trial Magistrate and confirmed by the learned First Appellate Court to pay monthly maintenance of Rs.6,000/-, the first Revision Petitioner is directed to pay another sum of Rs.5,000/- per month in addition to Rs.6,000/- per month towards the occupation of a similar accommodation of her choice, as per her prayer either in the Chitagoppa or in Bidar, other than the shared house hold in lieu a sum of Rs.5,000/- is ordered to be paid in lieu of the room to be provided as per the order of the learned Trial Magistrate in the impugned order.

(iii) The arrears of maintenance if any is to be paid by the Revision Petitioner No.1 within three months forthwith.

(iv) Failing which, the respondent is at liberty to take appropriate action in accordance with law.

(v) Ordered accordingly.

**Sd/-
JUDGE**

PL*
List No.: 1 Sl No.: 67