

**IN THE HIGH COURT OF MANIPUR**  
**AT IMPHAL**

**Crl. Rev. Petn. No. 11 of 2018**

Smt. Ksh. Ningol Thounaojam Ongbi Joymati Devi, aged about 34 years, w/o. Loyangamba Thounaojam a resident o Sagolband Ingudam Leirak, P.O. & P.S. Imphal, Imphal West, Manipur a/p Chingamakha Kshetri Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.

***... Petitioner***

**- Versus -**

Shri Loyangamba Thounaojam, aged about 37 years, s/o. Thounaojam Brajamani Meetei, a resident of Sagolband Ingudam Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.

***.....Respondent***

**B E F O R E**  
**HON'BLE MR. JUSTICE M.V MURALIDARAN**

For the petitioner : Mr. T. Rajendra, Advocate  
For the respondent : None appears.  
Date of Hearing : 24.04.2019.  
Date of Judgment & Order : **30.05.2019.**

**JUDGMENT & ORDER**  
**(CAV)**

[1] Heard Mr. T. Rajendra, learned counsel appearing for the petitioner. None appears for the respondent.

[2] This Criminal Revision Petition is directed against the judgment and order dated 21.02.2018 passed in Criminal Appeal No. 9 of 2017 on the file of the learned Sessions Judge, Imphal West.

[3] The petitioner herein has filed Criminal Miscellaneous Case No.37 of 2017 in Criminal (Maintenance) Case No.33 of 2014 under

Section 20 read with Section 28(2) of the Protection of Women from Domestic Violence Act, 2005 on the file of the learned Judicial Magistrate First Class, Imphal West at Lamphelpat seeking to order payment of medical expenses of the minor daughter to the tune of Rs.35,000/- (Rupees thirty five thousand) and Rs.11,370/- (Rupees Eleven thousand three hundred and seventy) for educational expenses incurred by the complainant/applicant altogether a sum of Rs.46,370/- (Rupees forty six thousand three hundred and seventy) by the respondent.

[4] By an order dated 29.08.2017, the learned Judicial Magistrate First Class, Imphal West disposed of the Criminal Miscellaneous Case No.37 of 2017. Aggrieved by the same, the petitioner had preferred Criminal Appeal Case No. 9 of 2017 on the file of the learned Sessions Judge, Imphal West dismissed the appeal. Challenging the same, the petitioner had preferred the present Criminal Revision Petition.

[5] Heard the learned counsel for the petitioner and the learned counsel for the respondent.

[6] Assailing the judgment of the learned Sessions Judge, Imphal West, the learned counsel for the petitioner submitted that the expenditure sought in the Criminal Miscellaneous Case No.37 of 2017 is a claim of the petitioner even after adjusting the amounts payable as per the compromise order dated 14.11.2016, which itself is alleged to have not been honoured fully by the respondent. Therefore, the same cannot be adjusted with the amount paid on 14.11.2016 before the Family Court, Manipur. He would submit that the learned Sessions Judge exceeded his jurisdiction and considered facts not pleaded by the petitioner while passing the impugned judgment. The learned

counsel further submitted that the Courts below failed to see that the claim of the petitioner in filing the Criminal Miscellaneous Case No.37 of 2017 is an independent claim, after passing of the compromise order and, therefore, the impugned orders were passed on technical grounds, which are not good in law. Further, the Courts below failed to see that the respondent has failed to honour the terms and conditions of the compromise.

[7] Per contra, reiterating the findings of the impugned orders, the learned counsel for the respondent submitted that upon appreciation of the facts and circumstances of the case, the learned Sessions Judge, dismissed the appeal. Further, the learned counsel submitted that there is no infirmity in the judgment under appeal and prayed for dismissal of the present Criminal Revision Petition.

[8] I have considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

[9] The petitioner had filed the criminal complaint being Criminal Complaint Case No.38 of 2014 before the learned Judicial Magistrate First Class, Imphal against the respondent herein and two others seeking the following prayer:

- (a) Take cognizance of the complaint petition.
- (b) Register the same as a complaint case.
- (c) To pass protection order to prohibit the act of domestic violence by the respondents and their man/agents against the complainant and the minor daughter.
- (d) To pass an order for restraining the respondents to take away the minor daughter namely Lanchenbi Chanu from the custody of the complainant.

- (e) Pass an order directing the respondents to pay a sum of Rs.5,00,000/- (Rupees five lakh) only as compensation to the complainant for the committal of series of unwanted domestic violence.
- (f) To pass an order for alternative arrangement of the complainant's accommodation other than the matrimonial house by the respondent No.1.

[10] The respondent herein had filed Matrimonial (Divorce) Suit No.82 of 2014 on the file of the Family Court, Manipur against the petitioner. By an order dated 14.11.2016, the learned Family Court passed an order based on the compromise entered into between the parties. The terms of compromise and the operative portion of the order reads thus:

- (i) That, the plaintiff will make necessary arrangement or a separate residence of their own and until a separate residence can be arranged the defendant along with their minor daughter namely Lanchenbi now aged 3 and a half years, will stay at her parental house.
- (ii) That, while the defendant is staying in her parental house as aforesaid she will allow the plaintiff to visit him and to stay with her as and when necessary.
- (iii) That, the plaintiff will always look after the defendant and his daughter and he will bear their necessary expenditure. For this the plaintiff will deposit necessary amount in the Bank Account No.20131335268 of S.B.I., M.G. Avenue, from time to time.
- (iv) That, the defendant will withdraw (a) Cril. (C) Case No.38 of 2014 before the Judicial Magistrate, First Class, Imphal West-I; (b) Cril. Misc. Case No.25 of

2016 Ref: Crl. (M) No.33 of 2014 now pending in the Family Court, Manipur and for this the defendant will file necessary application in the concerned court.

(v) That, for the immediate expenditure of the defendant, the plaintiff has this day handed over a sum of Rs.50,000/- (Rupees fifty thousand) only to the defendant and the defendant has also acknowledged the receipt of the same.

(vi) That, both parties will not do anything against the compromise now brought between the parties.

[11] Heard the parties in person in the presence of their respective Ld. Counsel and verified from them personally that they have indeed agreed to stay and live together as husband and wife against with their own free will and consent without any coercion, threat, duress or otherwise which would have invalidated their argument and I am satisfied with it. Both the parties have shed their differences and have mutually agreed to stay and live together as husband and wife as proposed by them which is very rare in the present day context. As agreed between the parties, the suit is disposed of on compromise.

[12] Contrary to the order passed in Mat. (Div) Suit No.82 of 2014, the petitioner had filed Criminal Miscellaneous Case No.37 of 2017 before the learned Judicial Magistrate, First Class, Imphal West alleging that the respondent has failed to provide expenditure incurred by the petitioner as well as the medical expenses and educational expenses of their minor daughter.

[13] The case of the petitioner before the learned Judicial Magistrate is that though the petitioner informed the respondent

through his mobile number about the emergency operation as well as admission of their minor daughter, there was no positive reply from the respondent and after borrowing the money from her sisters, the petitioner performed operation and thus the petitioner had incurred a sum of Rs.35,000/- towards operation. By the order dated 29.08.2017, the learned Judicial Magistrate observed as under:

*“6. In the premises, as the Respondent had given a sum of Rs.50,000/- (Rupees Fifty thousand) only on 14.11.2016 and the operation of the minor daughter being taken place on 04.01.2017 which expenses a sum of Rs.35,000/- (Rupees Thirty five thousand) only, this Court is of the view that since Respondent had given for expenditure, the said amount may be adjusted. However, the Respondent is directed to deposit the necessary expenditure monthly for the minor daughter in the Bank Account of the Complainant including the educational expenses before 10<sup>th</sup> of every calendar month. Disposed of accordingly.”*

[14] Stating that the expenditure sought for is related with the year 2017-2018 incurred by the petitioner and the same cannot be adjusted with the amount paid on 14.11.2016 before the Family Court, Manipur and that the learned Judicial Magistrate has encroached upon the proceedings of the Family Court in passing the impugned order, the petitioner has filed Criminal Appeal Case No. 9 of 2017 before the learned Sessions Judge, Imphal West.

[15] While dismissing the appeal preferred by the petitioner against the order passed by the learned Judicial Magistrate, the learned Sessions Judge observed as under:

*“On perusing the above referred assertions of Para No.3 of her application registered as Cril. Misc. Case No. 37 of 2017 and para No.3 (E) of this memo of appeal, it is crystal clear that her claim of Rs.46,370/- in total as medical and educational expenses of her daughter is based on the condition no.(iii) of the compromise decree dated 14.11.2016. In other words, the claims of the appellant/complainant are for execution of the condition no.(iii) of the said compromise decree dated 14.11.2016 passed by the Ld. Family Court, Manipur. It is settled principle of law that a decree may be executed either by the Court which passed it, or by the Court to which it is sent for execution. The JMFC/IW-I is neither a Court to pass the said compromise decree dated 14.11.2016 nor a Court to which is sent for execution and therefore, JMFC/IW-I has no jurisdiction to entertain the application filed by the appellant/complainant. The appellant has to knock the door of the Family Court, Manipur of her claims and not to the Court of JMFC/IW-I.*

*Resultantly, the instance appeal is dismissed as devoid of merit.”*

[16] The contention of the petitioner is that filing of Criminal Miscellaneous Case No. 37 of 2017 is an independent claim after passing of the compromise order. There is no force in the said submission of the learned counsel for the petition for the reason that

one of the terms and conditions in Mat. (Div) Suit No. 82 of 2014 is that the petitioner would withdraw Criminal (C) No. 38 of 2014 filed against the respondent. It is clear that contrary to the said condition, the petitioner has filed Criminal Miscellaneous Case No. 37 of 2017 and the learned Magistrate was right in disposing of the case holding adjustment of Rs.35,000/- from Rs.50,000/- paid by the respondent, which was rightly affirmed by the learned Sessions Judge, Imphal West.

[17] Considering the given facts and circumstances of the case, the learned Judicial Magistrate was right in not entertaining the petition filed by the petitioner. Further, the learned Judicial Magistrate has not encroached upon the proceedings of the Family Court as alleged by the petitioner. The prayer before the learned Judicial Magistrate is not independent to the prayer made in the Family Court, Manipur and that the learned Judicial Magistrate was right in adjusting the amount of Rs.35,000/- incurred by the petitioner towards operation charges of the daughter from Rs.50,000/- paid by the respondent.

[18] As rightly held by the learned Sessions Judge, the claim of Rs.46,370/- incurred by the petitioner as medical and educational expenses of her daughter is based on condition No.(iii) of the compromise decree dated 14.11.2016 passed in Mat. (Div) Suit No. 82 of 2014. Therefore, this Court finds no infirmity in the order of the learned Sessions Judge dated 21.02.2018 passed in Criminal Appeal Case No. 9 of 2017. No valid grounds have been made out to interfere with the order of the learned Sessions Judge and the learned Sessions Judge, upon appreciation of the materials



produced by both sides, has rightly dismissed the appeal preferred by the petitioner warranting no interference.

[19] In the result, the Criminal Revision Petition is dismissed confirming the order dated 21.02.2018 passed in Criminal Appeal Case No.9 of 2017 by the learned Sessions Judge, Imphal West. The petitioner is given liberty to file appropriate petition before the learned Family Court, Manipur at Lamphelpat, Imphal for enforcing the order made in Mat. (Div) Suit No.82 of 2014, dated 14.11.2016. No Costs.

**JUDGE**

**FR/NFR**

*Larson*