



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL REVISION PETITION No. 989 OF 2016

C/W

CRIMINAL REVISION PETITION No. 938 OF 2016

IN CRL.RP No. 989/2016:

BETWEEN:

1. SRI. NITHYANANDA
S/O. GANESH ACHARYA
AGED ABOUT 30 YEARS
2. SRI. GANESH ACHARYA
S/O. LATE SHANKAR ACHARYA
AGED ABOUT 63 YEARS.
3. SMT. LEELAVATHI
W/O. SRI. GANESH ACHARYA
AGED ABOUT 52 YEARS

ALL ARE RESIDING
AT No.174, KALMADI ROAD
KOTATHATTU VILLAGE
KUNDAPURA TALUK
UDUPI DISTRICT - 571 401.

...PETITIONERS

(BY SRI HEGDE V S, ADVOCATE)

AND:

SMT. SUREKHA SHETTY
ALLEGED W/O. NITHYANANDA
AGED ABOUT 35 YEARS
R/AT No.1507, 4TH CROSS
WEST OF CHORD ROAD



MAHALAKSHMIPURAM
BANGALORE - 560 086.

...RESPONDENT

(BY SRI B VIJAY SHETTY, ADVOCATE)

THIS CRL.RP IS FILED UNDER SECTION 397 READ WITH SECTION 401 Cr.P.C PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 10.09.2013 PASSED IN CRL.MISC.No.141/2012 ON THE FILE OF III M.M.T.C., BANGALORE AND SET ASIDE THE ORDER DATED 29.06.2016 PASSED IN CRL.A.No.541/2013 PARTLY ALLOWING THE APPEAL ON THE FILE OF 55TH ADDL. C.C. AND S.J., BANGALORE AND ETC.,

IN CRL.RP No. 938/2016:

BETWEEN:

1. SRI NITHYANANDA
S/O GANESH ACHARYA
AGED ABOUT 30 YEARS.
2. SRI. GANESH ACHARTYA
S/O. LATE SHANKAR ACHARYA
AGED ABOUT 63 YEARS.

3. SMT. LEELAVATHI
W/O SRI. GANESH ACHARYA
AGED ABOUT 52 YEARS.

ALL ARE RESIDING AT No.174
KALMADI ROAD
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UDUPI DISTRICT - 575 401.

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AGED ABOUT 35 YEARS



R/AT No.1507, 4TH 'D' CROSS
WEST OF CHORD ROAD
MAHALAKSHMIPURAM
BANGALORE - 560 086.

...RESPONDENT

(BY SRI B VIJAY SHETTY, ADVOCATE)

THIS CRL.RP IS FILED UNDER SECTION 397(1) READ WITH SECTION 401 Cr.P.C PRAYING TO SET ASIDE THE ORDER DATED 29.06.2016 PASSED BY THE 55TH ADDL. CITY CIVIL AND S.J., BENGALURU IN CRL.A.No.583/2013 BY CONFIRMING THE ORDER DATED 10.09.2013 PASSED BY THE M.M.T.C.-II, BANGALORE IN CRL. MISC. No.140/2012 AND ETC.,

THESE PETITIONS COMING ON FOR DICTATING ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL ORDER

1. Crl.R.P. No. 938/2016 is directed against the order dated 939/2016 passed in Crl.A. No. 583/2013 by the 55th Additional City Civil and Sessions Judge, Bengaluru allowing the appeal setting aside the order dated 10.09.2013 passed in Crl.Misc. No. 140/2012 by the II Traffic Metropolitan Magistrate, Bangalore, and petitioner Nos.1 to 3 have been directed to give a portion of accommodation in the house of petitioner No.1 where they are residing to the respondent (wife) as alternate accommodation under Section 19(1)(f) of Protection of



Women from Domestic Violence Act, 2005 (hereinafter referred to as the D.V. Act) for her residential purpose as prayed by her in Crl.Misc. No. 140/2012.

2. Crl.R.P. No. 989/2016 is directed against the order dated 29.06.2016 passed in Crl.A. No. 541/2013 by 55th Additional City Civil and Sessions Judge, Bengaluru, whereunder the appeal came to be partly allowed whereby granting house rent to the respondent (wife) in Crl.Misc. No. 141/2012 dated 10.09.2013 is rejected and other part of the order has been confirmed.

3. Heard learned counsel for petitioners and learned counsel for respondent.

4. Respondent – wife filed an application under Section 12 of the D.V. Act in Crl.Misc. No. 141/2012 (old No. 1163/2009) claiming several reliefs against the petitioners including maintenance, monetary relief etc. Respondent also filed Crl.Misc.No. 140/2012 (old No. 1069/2010) under Section 12 of the D.V. Act seeking residence order directing the petitioners to give a portion



of the accommodation in the house of the petitioners where they reside.

5. It is the case of the respondent that her marriage took place with petitioner No. 1 on 22.10.2007 in Ganesh temple, Rajaji Nagar, Bangalore and it was a love marriage and also, an inter-caste marriage. Said marriage has been attended by the parents, brothers and friends of respondent. Respondent lived with petitioner No. 1 for a period of one year in Bengaluru and that is after marriage. Petitioner Nos. 2 and 3 have not attended the said marriage. As the marriage was a love marriage and inter-caste marriage, petitioner Nos. 2 and 3 asked the respondent to leave petitioner No. 1 stating that they will perform his marriage with some other girl of same caste by taking huge dowry. Petitioner No. 1 led marital life with the respondent for a period of one year, till October 2008, and thereafter changed his mind and started to listen to the words of his parents and started to ill-treat the respondent physically and mentally. Petitioner No.1



demanded dowry of Rs. 2 lakhs from the respondent and stated that otherwise he will divorce her. On 02.11.2008 petitioner No. 1 assaulted the respondent and she gave complaint to the Mahalakshmpuram Police Station, Bangalore on 03.11.2008. Petitioner No. 1 appeared before the Police, admitted the relationship and told the Police that they will settle the matter in the Court. Thereafter, petitioner No. 1 started to reside in his native place to avoid the respondent. It is stated that petitioner No. 1 was doing carpenter work and earning Rs.15,000/- per month and also having agricultural income to the tune of Rs.10,000/- per month. Petitioner No. 1 was making efforts to marry some other girl of his own caste and therefore, respondent filed another complaint to the Police on 17.02.2009 and Police registered a case against him for offence under Section 498-A and 506 of IPC and Sections 3 and 4 of the Dowry Prohibition Act (hereinafter referred to as D.P. Act) and based on it charge sheet has been filed and case has been registered against the petitioner No.1



in C.C. No. 12428/2009. Respondent continued to reside in a rented house by paying rent of Rs.2,000/- per month. Petitioner No. 1 filed his objections to the petition of respondent and took up the contention that respondent is not at all the wedded wife and she has no domestic relationship with him. He contended that respondent is a stranger to him and she has created false story in order to extract huge money from the petitioners. Respondent claimed monetary relief of maintenance, residence order and other reliefs.

6. Respondent led evidence and examined herself as P.W.1 and examined herself as P.W.1 and examined one witness as P.W.2 and got marked Ex.P.1 to Ex.P.15 in Crl.Misc. No. 141/2012. Petitioner No.1 has been examined as R.W.1 and got marked Ex.R.1 to Ex.R.3.

7. Respondent has been examined as P.W.1 and got examined another witness as P.W.2 and got marked Ex.P.1 to Ex.P.18 and petitioner No. 1 has been examined



as R.W.1 and no documents were marked on his side in Crl.Misc.No. 140/2012.

8. Learned Magistrate heard arguments on both sides and passed common order in both petitions. Learned Magistrate has allowed Crl.Misc. No. 141/2012 in part and granted maintenance of Rs.5,000/- per month to the respondent and directed petitioner No. 1 to pay the same and also directed petitioner No.1 to pay Rs.2,000/- as rent of the house in which respondent resides. Learned Magistrate has also granted compensation of Rs.1.00 lakh for her mental and physical cruelty. Learned Magistrate has dismissed Crl.Misc.No. 140/2012. Aggrieved by the said order passed by the learned Magistrate petitioners filed Crl.A No. 541/2013 challenging the order passed in Crl.Misc. No. 141/2012 and respondent filed Crl.A. No. 583/2013 challenging dismissal of Crl.Misc. No. 140/2012.

9. Learned Sessions Judge heard arguments on both sides and passed judgment dated 29.06.2016 whereunder he allowed Crl.A. No. 541/2013 in part and



set aside order of the Magistrate directing payment of house rent in a sum of Rs.2,000/- and confirmed the other relief granted in it. Learned Sessions Judge has allowed Crl.A. No. 583/2013 and directed petitioners herein to give a portion of accommodation in the house of petitioner No. 1 where they reside to the respondent as alternate accommodation under Section 19(1)(f) of D.V. Act for her residential purpose as prayed by her in Crl.Misc.No. 140/2012. Aggrieved by the said order passed by the learned Sessions Judge in both the appeals, petitioners have filed these two revision petitions.

10. Learned counsel for petitioners has contended that there is no domestic relationship between the petitioners and respondent as defined under Section 2(f) of D.V. Act as the marriage has not been proved in accordance with law. He contended that it is for the respondent to prove the marriage but the learned Magistrate and Sessions Judge have casted the burden of proving the marriage on petitioner No. 1 – husband and it



is negative burden. Learned Magistrate has given a finding on marriage based on Ex.P.2 – photograph and negatives of the same are not produced. As the marriage is disputed it is for the respondent to prove the marriage and not for petitioner No.1 to disprove the marriage. Learned Magistrate has placed reliance on the voter I.D. and election slips regarding proof of marriage. He submits that voter I.D. has been created and it is prepared at the instance of respondent and therefore it cannot be relied on to establish the relationship of husband and wife. The ceremonies of Hindu Marriage as required under Section 7 of the Hindu Marriage Act, i.e., 'Saptapadi' has not been established. Marriage is not registered. He further contended that points for consideration/issues were not framed at the trial and they are formulated at the time of passing order which deprives the petitioners an opportunity to prove those points. On that point he placed reliance on the decision of the Himachal Pradesh High Court in the case of ***Sanjeev Kumar Vs. Sushma Devi***,



Cr.Revision No. 132/2021 decided on **01.06.2023**. He placed reliance on the judgment of a coordinate Bench of this Court in the case of **Neelam Manmohan Vs. Neelam Attavar**, reported in **LAW(KAR)-2018-7-97** on the point that negatives of the photograph i.e., Ex.P.2 is not produced and therefore, photograph cannot be taken as a piece of evidence.

11. Per contra, learned counsel for respondent wife would contend that the marriage of petitioner No. 1 and respondent is a love marriage and it is an inter-caste marriage which took place at Ganesha temple at Rajaji Nagar, Bengaluru, on 22.10.2007 and they led marital life as husband and wife and resided in a rented house belonging to P.W.2 at Bengaluru. Voter I.D. card and evidence of P.W.2 establish that petitioner No.1 and respondent resided as husband and wife.

12. Points for consideration or issues are not necessary to be framed prior to commencement of trial as proceedings under the D.V. Act are summary proceedings.



Petitioner No.1 was aware of the contention of respondent regarding her marriage with him and they residing together as husband wife and petitioner No.1 denying the said marriage and relationship. Petitioner No.1 was also aware of the said contention and contested the matter and therefore, he is aware of the dispute involved in the lis and he had been given opportunity to prove his contention. Therefore, in proceedings of summary nature there is no necessity of framing issues or points for consideration prior to commencement of trial. Therefore, the judgment of the Himachal Pradesh High Court (supra) relied upon by the learned counsel for petitioners is not based on any of the provisions of D.V. Act.

13. The Hon'ble Apex Court in the case of ***Kamala and others Vs. M.R. Mohan Kumar, Crl.A. Nos. 2368-2369/2009*** decided on **24.10.2018** has held as under:

"19. In Chanmuniya case, this Court formulated three questions and referred the matter to the larger Bench. However, after discussing various provisions of the Criminal Procedure Code,



this Court held that a broad and extensive interpretation should be given to the term "wife" under Section 125 Cr.P.C. and held as under:-

"42. We are of the opinion that a broad and expansive interpretation should be given to the term "wife" to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time, and strict proof of marriage should not be a precondition for maintenance under Section 125 Cr.PC, so as to fulfill the true spirit and essence of the beneficial provision of maintenance under Section 125. We also believe that such an interpretation would be a just application of the principles enshrined in the Preamble to our Constitution, namely, social justice and upholding the dignity of the individual."

14. Considering the said decision strict proof of marriage should not be a precondition for proceedings under Section 12 of the D.V. Act.

15. Domestic relationship as defined in the D.V. Act means relationship between two persons who live or have,



at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage. The relevant provisions of the D.V. Act are reproduced herein.

Section 2(a) of the D.V. Act defines 'aggrieved person' which reads thus:

2(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

Section 2(f) of the D.V. Act defines 'domestic relationship' and it reads thus:

2(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, live together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;



Section 2(q) of the D.V. Act defines 'respondent' and it reads thus:

2(q) "respondent" means any adult male person who is, or has been, in domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relationship of the husband or the male partner.

Section 2(s) of the D.V. Act defines 'shared household' and it reads thus:

2(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any



right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household."

16. In terms of Section 2(f) of the D.V. Act 'domestic relationship' not only means relationship between two persons who live together in a shared household by virtue of marriage, two persons who lived together in a share household through a relation in the 'nature of marriage' would also be called to be in a domestic relationship.

17. Respondent in her petition has categorically stated that marriage between her and petitioner No. 1 had taken place on 22.10.2007 in Ganesha Temple at Rajaji Nagar, Bengaluru and thereafter she resided with petitioner No. 1 in a rented house at Bengaluru for one year and she was subjected to cruelty. In view of definition of 'domestic relationship' strict proof of



marriage for claiming relief under the D.V. Act is not necessary since the said definition includes relationship in the nature of marriage or lived together in a shared household. Even the parties to a 'live-in relationship' are also entitled to claim benefits under the provisions of D.V. Act.

18. The voter I.D. card contains the name of petitioner No.1 as husband of respondent. Apart from that there is evidence of P.W.2 who has categorically deposed that petitioner No.1 and respondent resided as husband and wife in the house belonging to his father as tenants for a period of one year and their marriage is a love marriage and inter-caste marriage. Basing on the said evidence, learned Magistrate has rightly held that there is domestic relationship between the petitioners and respondent.

19. Learned counsel for petitioners would contend that the respondent has not resided with petitioner Nos. 2 and 3 at any point of time in their house at Kotakattu



village Kundapura taluk and therefore, the residence order passed by the appellate Court is not maintainable. On that point he placed reliance on the judgment of the Hon'ble Apex Court in the case of **S.R. Batra and others Vs. Taruna Batra** reported in **2007 (3) SCC 169**. The Hon'ble Apex Court in the said decision has held as under:

"29. As regards Section 17(1) of the Act, in our opinion the wife is only entitled to claim a right to residence in a shared household, and a shared household would only mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. The property in question in the present case neither belongs to Amit Batra nor was it taken on rent by him nor is it a joint family property of which the husband Amit Batra is a member. It is the exclusive property of Appellant 2, mother of Amit Batra. Hence it cannot be called a "shared household."

20. Learned counsel for respondent has placed reliance on the decision of the Hon'ble Apex Court in the case of **Prabha Tyagi Vs. Kamlesh Devi** reported in



2022 (8) SCC 90. In the said case the Hon'ble Apex Court has held as under:

"75. In view of the above discussion, the three questions raised in this appeal are answered as under:

75.1 (i) Whether the consideration of Domestic Incidence Report is mandatory before initiating the proceedings under Domestic Violence Act, 2005 in order to invoke substantive provisions of Sections 18 to 20 and 22 of the said Act?"

It is held that Section 12 does not make it mandatory for a Magistrate to consider a Domestic Incident Report filed by a Protection Officer or service provider before passing any order under the D.V. Act. It is clarified that even in the absence of a Domestic Incident Report, a Magistrate is empowered to pass both ex parte or interim as well as a final order under the provisions of the D.V. Act.

75.2 "(ii) Whether it is mandatory for the aggrieved person to reside with those persons against whom the allegations have been levied at the point of commission of violence?"

It is held that it is not mandatory for the aggrieved person, when she is related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family



members living together as a joint family, to actually reside with those persons against whom the allegations have been levelled at the time of commission of domestic violence. If a woman has the right to reside in the shared household Under Section 17 of the D.V. Act and such a woman becomes an aggrieved person or victim of domestic violence, she can seek reliefs under the provisions of D.V. Act including enforcement of her right to live in a shared household.

75.3. "(iii) Whether there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed?"

It is held that there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed vis-à-vis allegation of domestic violence. However, it is not necessary that at the time of filing of an application by an aggrieved person, the domestic relationship should be subsisting. In other words, even if an aggrieved person is not in a domestic relationship with the Respondent in a shared household at the time of filing of an application Under Section 12 of the D.V. Act but has at any point of time lived so or had the right to live and has been subjected to domestic violence or is later subjected to domestic violence on account of



the domestic relationship, is entitled to file an application Under Section 12 of the D.V. Act."

21. In the said decision the Hon'ble Apex Court has held that the expression 'right to reside in the shared household' is not restricted to only actual residents, as, irrespective of the actual residents, women in a domestic relationship can enforce her right to reside in a shared household. The Hon'ble Apex Court in the said decision has held as under:

*30. Further in *Satish Chander Ahuja v. Sneha Ahuja* [(2021) 1 SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] , a three-Judge Bench of this Court, wherein one of us (Shah, J.) was a member, considered the expressions "lives or have at any point of time lived" appearing in Section 2(s) of the DV Act. This Court while considering the correctness of the law laid down in *S.R. Batra v. Taruna Batra* [(2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56] , concluded that the said case had not correctly interpreted Section 2(s) of the DV Act and that the said judgment does not lay down a correct law and observed as under : (Sneha Ahuja case [Satish Chander Ahuja v. Sneha Ahuja, (2021) 1*



SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] , SCC pp. 452-53, paras 66-69)

"66. ... The expression 'at any stage has lived' occurs in Section 2(s) after the words 'where the person aggrieved lives'. The use of the expression 'at any stage has lived' immediately after words 'person aggrieved lives' has been used for object different to what has been apprehended by this Court in para 26. The expression 'at any stage has lived' has been used to protect the women from denying the benefit of right to live in a shared household on the ground that on the date when application is filed, she was excluded from possession of the house or temporarily absent. The use of the expression 'at any stage has lived' is for the above purpose and not with the object that wherever the aggrieved person has lived with the relatives of husband, all such houses shall become shared household, which is not the legislative intent. The shared household is contemplated to be the household, which is a dwelling place of aggrieved person in present time.



67. ... *The entire scheme of the Act is to provide immediate relief to the aggrieved person with respect to the shared household where the aggrieved person lives or has lived. As observed above, the use of the expression 'at any stage has lived' was only with intent of not denying the protection to aggrieved person merely on the ground that aggrieved person is not living as on the date of the application or as on the date when Magistrate concerned passes an order under Section 19. The apprehension expressed by this Court in para 26 in S.R. Batra v. Taruna Batra [S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56] , thus, was not true apprehension and it is correct that in event such interpretation is accepted, it will lead to chaos and that was never the legislative intent. We, thus, are of the considered opinion that shared household referred to in Section 2(s) is the shared household of aggrieved person where she was living at the time when application was filed or in the recent past had been excluded from the use or she is temporarily absent.*



68. The words 'lives or at any stage has lived in a domestic relationship' have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not. As noted above, the 2005 Act was enacted to give a higher right in favour of woman. The 2005 Act has been enacted to provide for more effective protection of the rights of the woman who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Sections 17 and 19 of the 2005 Act grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.

69. ... The definition of "shared household" as noticed in Section 2(s) does not indicate



that a shared household shall be one which belongs to or taken on rent by the husband. We have noticed the definition of "respondent" under the Act. The respondent in a proceeding under the Domestic Violence Act can be any relative of the husband. In the event, the shared household belongs to any relative of the husband with whom in a domestic relationship the woman has lived, the conditions mentioned in Section 2(s) are satisfied and the said house will become a shared household."

22. Considering the above, the decision relied upon by the learned counsel for petitioner in the case of **S.R. Batra** (supra) has been overruled by a three Judge Bench in the case of **Satish Chander Ahuja Vs. Sneha Ahuja**. The Hon'ble Apex Court in the said decision has observed as under:

"42. Further, the expression "the right to reside in a shared household" cannot be restricted to actual residence. In other words, even in the absence of actual residence in the shared household, a woman in a domestic relationship can



enforce her right to reside therein. The aforesaid interpretation can be explained by way of an illustration. If a woman gets married then she acquires the right to reside in the household of her husband which then becomes a shared household within the meaning of the DV Act. In India, it is a societal norm for a woman, on her marriage to reside with her husband, unless due to professional, occupational or job commitments, or for other genuine reasons, the husband and wife decide to reside at different locations. Even in a case where the woman in a domestic relationship is residing elsewhere on account of a reasonable cause, she has the right to reside in a shared household. Also a woman who is, or has been, in a domestic relationship has the right to reside not only in the house of her husband, if it is located in another place which is also a shared household but also in the shared household which may be in a different location in which the family of her husband resides."

23. Considering the said aspect, the order passed by the appellate Court, i.e., residence order for the respondent to reside in the house of petitioner Nos. 2 and 3 is proper and correct.



24. Considering all these aspects no fault can be found with the order passed by the trial Court and the judgment passed by the appellate Court.

25. Learned counsel for petitioners has not argued regarding quantum of maintenance awarded and therefore this Court need not go into the said aspect. There are no grounds made out to interfere with the well reasoned order passed by the trial Court and the appellate Court.

26. In the result, both the petitions are dismissed.

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**

LRS
List No.: 1 SI No.: 27