

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Cr1.Revision Case No.568 of 2015
and
M.P.No.1 of 2015

1. R.K.Leela
2. Minor Mesha Shree
3. Minor Aswetha Shree
[Minors 2 & 3 represented
by the first petitioner]

... Petitioners

vs

1. A.Raghu
2. A.Krishnaveni
3. T.Annamalai
4. D.Lakshmi
5. A.Ramu

... Respondents

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order of dismissal dated 07.04.2015 passed by the learned Principal District Judge, Chingleput in C.A.No.8 of 2014 against the order passed by the learned Judicial Magistrate, Madurantagam in C.M.P.No.935 of 2014 in M.C.No.2 of 2014.

For Petitioners : Mr.D.Selvaraju

For Respondents : Mr.R.Sankarasubbu

ORDER

This Criminal Revision Case is preferred as against the dismissal order dated 07.04.2015 passed by the learned Principal Sessions Judge, Chingleput in C.A.No.8 of 2014 against the order passed by the learned Judicial Magistrate, Madurantagam in C.M.P.No.935 of 2014 in M.C.No.2 of 2014.

2. The case in brief is as follows:

The petitioners herein preferred M.C.No.2 of 2014 under Section 12 of the Protection of Women from Domestic Violence Act, 2005

prohibiting the respondents from committing the acts of domestic violence and other reliefs. They also filed Crl.M.P.No.935 of 2014 under Section 19 of the Act to direct the first respondent/husband to take back the petitioners to the matrimonial home and further permit them to reside in the shared house hold premises pending disposal of the above Maintenance Case. The said petition was allowed by the learned Judicial Magistrate, Madurantagam vide order dated 07.03.2014. Aggrieved over the same, the respondents herein filed Crl.A.No.8 of 2014 under Section 29 of the Act contending that the learned Judicial Magistrate after they entered appearance through their counsel, passed the order allowing the petition filed by the petitioners under Section 19 of the Act without even giving an opportunity to them to file counter. Learned Principal District Judge, Chengalpattu allowed the appeal filed by the respondents herein on the ground that no opportunity was given to the respondents herein/appellants. As against the order passed by the Court below, the petitioners have filed this Criminal Revision Case.

3. Learned counsel for the petitioners would contend that the Court below erred in allowing the Criminal Appeal filed by the respondents as the first petitioner, being the legally wedded wife of the first respondent and that the petitioners 2 and 3 being the minor children born through the wedlock, they are entitled to a residential order. Accordingly would submit that the order passed by the learned Judicial Magistrate, Madurantagam granting the same cannot be found fault with.

4. Learned counsel for the respondents would submit that the order passed by the Court below in allowing the Appeal filed by the respondents is reasonable as they have not been given any reasonable opportunity to put forth their case by the lower court. Accordingly, they would pray for the dismissing this Criminal Revision Case.

5. However, after some elaborate arguments, both sides fairly submitted that since the order has been passed by the learned Judicial Magistrate, Madurantagam in the miscellaneous petition, the said Court may be directed to take up the main case itself, viz., M.C.No.02 of 2014 and dispose of the same at the earliest after giving sufficient opportunity to the respondents herein.

6. In view of the said submission made, without going into the merits of the matter, the learned Judicial Magistrate, Madurantakam is directed to take up the main case itself in M.C.No.2 of 2014 for hearing and after affording one more opportunity to the respondents herein for putting forth their case, shall pass appropriate orders on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

7. With the above observation, this Criminal Revision Case is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vj2

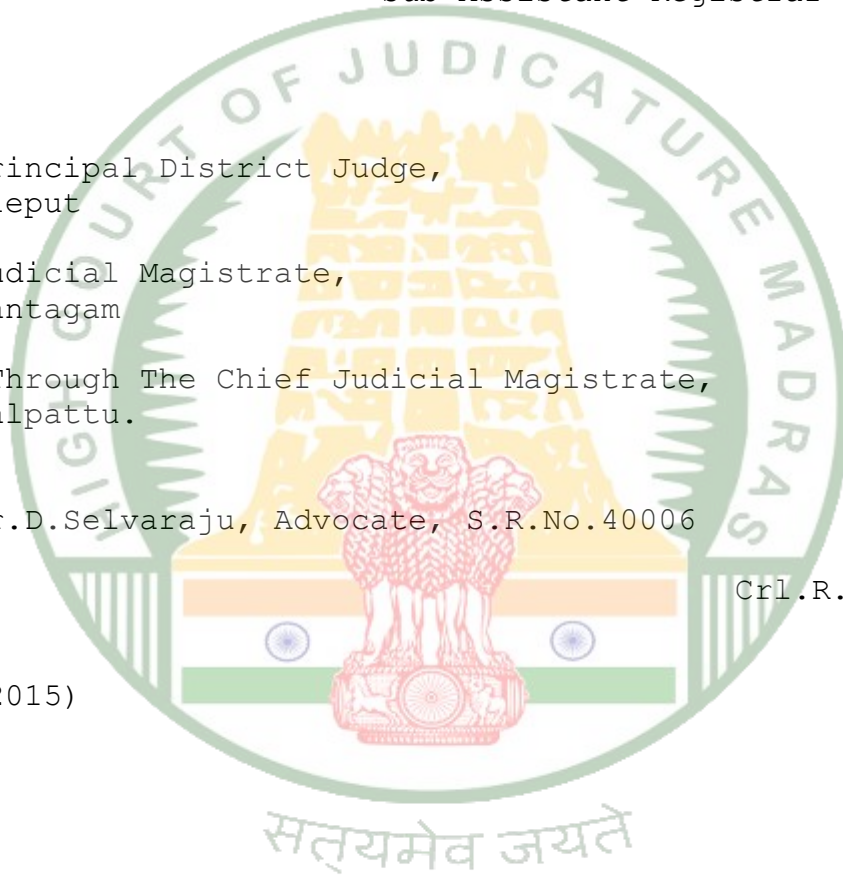
To

1. The Principal District Judge,
Chingleput
2. The Judicial Magistrate,
Madurantagam
3. -do- Through The Chief Judicial Magistrate,
Chengalpattu.

+1cc to Mr.D.Selvaraju, Advocate, S.R.No.40006

CrI.R.C.No.568 of 2015

NM(CO)
CA(14/08/2015)



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