

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1164 of 2014

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ORDER:

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The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 04.03.2014 passed in CrI.M.P.No.954 of 2013 in D.V.C.No.29 of 2011 on the file of the I Additional Chief Metropolitan Magistrate, Vijayawada, wherein an application filed to set-aside the *ex parte* order passed in D.V.C.No.29 of 2011 dated 04.06.2012 was dismissed.

The facts in issue are as under:

A report under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short "the Act") was filed by the second respondent herein against the petitioners claiming reliefs under Sections 18, 19, 20 and 22 of the Act. An *exparte* order was passed on 04.06.2012. Thereafter, the petitioners filed a petition to set aside the *exparte* order, which was dismissed by the learned Magistrate. Aggrieved by the same, the present revision is filed.

Learned counsel for the petitioner submits that when the Act is silent, Section 126 Cr.P.C. was involved to set aside the said order and their action is neither wilful nor wanton.

Learned Public Prosecutor opposed the application contending that as per Section 29 of the Act only an appeal lies against any order passed in D.V.C..

Section 29 of the Act reads as under:

“There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.”

In view of the above, the remedy available to the petitioner is to challenge the impugned order by way of filing an appeal under the provisions of Act.

Giving liberty to the petitioners to challenge the order by way of filing an appeal before the Sessions Court concerned, the Criminal Revision Case is disposed of. It is made clear that the period which the petitioners have lost by choosing a wrong forum can be taken into account while computing the limitation. It is also made clear that the petitioner shall prefer an appeal within a period of two (02) weeks from 30.04.2015.

Accordingly the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.04.2015

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