

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1519 of 2014

-
ORDER:

-
Aggrieved by the order dated 25.06.2014, passed in Crl.M.P.No.1378 of 2014 in Crl.A.S.R.(D.D.R.) No.1695 of 2014 on the file of the Metropolitan Sessions Judge-cum-Special Judge to try offences under NDPS Act, Visakhapatnam, the present revision is filed under Sections 397 and 401 Cr.P.C. wherein and whereunder an application filed under Section 127 of Criminal Rules of Practice to condone the delay of 221 days in filing the appeal against the order dated 07.08.2013 passed in Crl.M.P.No.2534 of 2013 in D.V.C.No.37 of 2011 was dismissed.

The facts in issue are as under:

The petitioner herein filed D.V.C.No.37 of 2011 claiming various reliefs under the provisions of Protection of Women from Domestic Violence Act, 2005. Pending the said D.V.C. the petitioner also filed Crl.M.P.No.2534 of 2013 seeking interim maintenance. By an order, dated 7.08.2013, the learned III Metropolitan Magistrate, Visakhapatnam, dismissed the said application. Challenging the same the petitioner filed an appeal before the Court of Metropolitan Sessions Judge, Visakhapatnam, with a delay petition i.e. Crl.M.P.No.1378 of 2014, seeking condonation of delay of 221 days in filing the appeal. The learned Metropolitan Sessions Judge, dismissed the said application on the ground that no day to day delay was not properly explained. Aggrieved by the same, the present revision is filed.

Learned counsel for the petitioner submits that the petitioner would be put to great hardship and she will suffer an irreparable loss if interim maintenance is not awarded. According to her, the petitioner has no means to live and that she will be put to starvation if no interim

maintenance is granted.

Learned counsel for the respondents submits that the proceedings in the D.V.C. are almost complete as such the question of entertaining the revision would not arise.

It is true that there is a delay of 221 days in filing the appeal. The counsel for the petitioner submits that in view of the strike which was going on in the said region, the petitioner could not file the appeal. Though the strike in Seemandhra region concluded in the month of February, 2014, no appeal was filed immediately thereafter, it is to be noted that the trial Court passed orders in CrI.M.P.No.2534 of 2013 on 07.08.2013. Though there was strike in the region, she admits that there is some delay, but states that the petitioner is put to irreparable loss if the delay is not condoned.

Having regard to the facts and circumstances of the case, the delay of (221) days in filing the appeal is condoned and the matter is remanded to the lower appellate Court for disposal on merits. It is made clear that this order shall not preclude the learned Magistrate in proceeding further with D.V.C.No.37 of 2011.

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

JUSTICE C. PRAVEEN KUMAR

23.02.2015

gkv