

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders Reserved on : 11.07.2016)

DATED: 25.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.307 of 2014

and

M.P.No.1 of 2014

Dr.Rammish Ramanath ... Petitioner

Vs.

Sheela ... Respondent

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, praying to set aside the order passed by the learned Judicial Magistrate No.II, Puducherry, in Crl.M.P.No.536 of 2014 in M.C.No.33 of 2013, dated 10.02.2014 and to permit the petitioner to pay an amount of Rs.7500/- per month towards interim maintenance of the 2 children.

For Petitioner : Mr.V.Ajayakumar
For Respondent : Mr.S.Vimal

ORDER

This Criminal Revision Case is directed against the order dated 10.02.2014 passed by the learned Judicial Magistrate No.II, Puducherry, in Crl.M.P.No.536 of 2014 in M.C.No.33 of 2013.

2. In this case, the respondent herein/wife has filed a petition before the trial Court against the revision petitioner/husband under Section 23(2) of the Protection of Women from Domestic Violence Act, seeking interim maintenance of Rs.50,000/- per month. The trial Court, after perusing the entire records, allowed the said petition and directed the respondent therein/revision petitioner to pay a sum of Rs.30,000/- per month to the petitioner therein/wife and the children as interim maintenance from the date of the petition and the respondent therein/husband was directed to pay the interim maintenance amount on or before 5th of every calendar month. Aggrieved by the said order passed by the trial Court, the present criminal revision case is preferred by the revision petitioner before this Court.

3. The learned counsel for the revision petitioner would contend that the trial Court, without considering the counter statement filed by the revision petitioner/husband to prove his case, had erroneously passed the order granting interim maintenance and hence, the order passed by the trial Court has to be set aside and the Criminal Revision Case has to be allowed.

4. The learned counsel for the respondent would contend that the learned Judicial Magistrate No.II, Puducherry, after analysing the entire evidence and documents produced by both the parties, came to a correct conclusion and awarded interim maintenance to the respondent herein/wife and her two children and hence, the learned counsel prayed that the criminal revision case has to be dismissed.

5. In this case, the order passed by the learned Judicial Magistrate No.II, Puducherry, is appealable under Section 29 of the the Protection of Women from Domestic Violence Act. It is useful to refer Section 29 of the Protection of Women from Domestic Violence Act (hereinafter referred to as the said Act).

"29. Appeal.- 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."

6. On a reading of Section 29 of the said Act, it is seen that if a person is aggrieved by the order of the Magistrate, he has to prefer an appeal before the Court of Sessions. In this case, as against the order passed by the learned Judicial Magistrate No.II, Puducherry, the petitioner has preferred the present criminal revision case before this Court and hence, the criminal revision case is liable to be dismissed.

7. In the result, the Criminal Revision Case is dismissed with liberty to the petitioner to prefer an appeal before the appropriate Court according to law. The connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To
The Judicial Magistrate No.II,
Puducherry.

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