

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.Nos.1108 & 1109 of 2012
and M.P.No.1 of 2012

C.Navakotti

.. Petitioner in both Crl.RCs.

Vs

N.Vasuki

..Respondent in both Crl.RCs.

PRAYER in Crl.R.C.No.1108 of 2016: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 26.07.2012 made in M.P.No.3785 of 2011 on the file of the XVIII Metropolitan Magistrate, Saidapet and set aside the same.

PRAYER in Crl.R.C.No.1109 of 2016 : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records pertaining to the order of dismissal in M.P.No.1331 of 2012 in M.P.No.3785 of 2011 dated 16.07.2012 passed by the learned XVIII Metropolitan Magistrate, Saidapet and set aside the same.

For Petitioner: M/s.N.Sampath
For respondent: M/s.Sudha Ramalingam

C O M M O N O R D E R

These criminal revision petitions are directed against the order passed by the learned XVIII Metropolitan Magistrate, Saidapet made in M.P.No.1331 of 2012 in M.P.No.3785 of 2011 dated 16.07.2012 and made in M.P.No.3785 of 2011 dated 26.07.2012 filed under sections 18, 20, 22 and 23 of the Domestic Violence Act.

2.The learned counsel for the petitioner would contend that the criminal revisions would lie before this Court against the order of learned XVIII Metropolitan Magistrate, Saidapet in M.P.No.3785 of 2011 dated 26.07.2012 on the petition filed by the respondent herein/wife.

3. In the above said circumstances, it is useful to extract Section 29 of the Protection of Women from Domestic Violence Act, 2005 which read as follows :-

"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."

4. In view of the above said provisions, the person convicted before the trial court/Metropolitan Magistrate has right to file appeal before the Sessions Judge and also in the case of acquittal, the appeal shall lie before the appellate Court to which the appeal ordinarily lie, the appeal has to be necessarily preferred before the concerned Sessions Court.

5. If any person, aggrieved over the said order passed by the learned XVIII Metropolitan Magistrate, Saidapet, he has to prefer an appeal before Sessions Court. But the present revisions are preferred by the revision petitioner without invoking section 29 of the Domestic Violence Act. The revision petitioner has every right to prefer an appeal before the Sessions Judge of the concerned District. If the petitioner is aggrieved over the order of the learned XVIII Metropolitan Magistrate, Saidapet, he has to prefer an appeal before the concerned Court and without following the above said procedure, the petitioner, straightaway, filed the revision petitions before this Court which is not at all maintainable and these revisions are liable to be dismissed.

6. In the result, these criminal revision petitions stand dismissed, with liberty to the petitioner to approach the competent court in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

kkd

To

The XVIII Metropolitan Magistrate, Saidapet.

+2ccs to M/s. N. Sampath, Advocate, S.R.No.2565, 5266

+2ccs to Mr.Sudha Ramalingam, Advocate, S.R.No.

SAI (CO)

EU(21/10/2016)

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