

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.704 of 2016
and Crl.MP.5074 of 2016

P.S.Sekar

.. Petitioner

Vs.

1.Mrs.S.Gowri
2.Prasanna (minor)
3.Thithiksha (minor)

.. Respondents

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 18.07.2014 made in MC.No.19 of 2014 in Crl.MP.1362 of 2016 on the file of Judicial Magistrate, Thiruvottiyur.

For Petitioners : Mr.S.Baskar
For Respondents : Mr.P.V.Ravi Kumar

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate, Thiruvottiyur in MC.No.19 of 2014 in Crl.MP.No.1362 of 2016 dated 18.07.2014 under section 18, 19 and 20 of the Protection of Women from Domestic Violence Act.

2.The learned counsel for the petitioner would contend that the criminal revision would lie before this Court against the order of learned Judicial Magistrate, Alandur in Thiruvottiyur in MC.No.19 of 2014 in Crl.MP.No.1362 of 2016 dated 18.07.2014 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/Judicial 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 Judicial Magistrate, Thiruvottiyur, he has to prefer appeal before Sessions Court. But the present revision is 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 Judicial Magistrate, Thiruvottiyur he has to prefer an appeal before the concerned Court and without following the above said procedure, the petitioner, straightaway, filed the revision petition before this Court which is not at all maintainable and the revision is liable to be dismissed.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Judicial Magistrate, Thiruvottiyur.

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