

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.730 of 2016
and
MP.Nos.5440 & 5441 of 2016

Anantharaman Ramamoorthy

..Petitioner/Accused

Vs.

Abilasha Venkataraman

...Respondent/Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. against the order dated 07.04.2016 made in MC.No. 8 of 2015 in MP.No.989 of 2016 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.R.Mohandoss
for Swaminathan Law Associates.

For Respondent : M/s.Kanimozhimathi

ORDER

The criminal revision petition is directed against the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai in MC.No. 8 of 2015 in MP.No.989 of 2016 dated 07.04.2016.

2.The learned counsel for the petitioner would submit that it is only an interim order, the nature of the revision petition is certainly maintainable before this Court.

3.The first and foremost objection raised by the learned counsel for the respondent is that the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai in MC.No.8 of 2015 in MP.No.989 of 2016 is filed under Section 31 of the Domestic Violence Act. As against the order of the Magistrate only appeal alone lies under Section 29 of the said Act and no revision can be filed by the petitioner before this Court and the same is liable to be dismissed.

4. On reading of the entire papers, the petition is filed by the respondent under Section 31 of the Domestic Violence Act, is allowed by the Magistrate by an order dated 07.04.2016.

5. The relevant paragraphs of the Protection of Women from Domestic Violence Act, 2005 is extracted hereunder for consideration:-

"27. Jurisdiction :- (1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which -

(a) the person aggrieved permanently or temporarily resides or carried on business of is employed; or

(b) the respondent resides or carried on business or is employed; or

(c) the cause of action has arisen,

shall be the competent Court to grant a protection order and other orders under this Act and to try offences under this Act.

28. Procedure - (1) Save as otherwise provided in this Act, all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under Section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974)

(2) Nothing in sub-section (1) shall prevent the Court from laying down its own procedure for disposal of an application under Section 12 or under sub section (2) of section 23.

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 perusal of the above said Act, the Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be within the local limits of whose jurisdiction has the powers to pass orders, they can also adopt their own procedure in disposing of the application and order passed by the concerned Magistrate is appealable before the concerned District Court of Sessions, hence, the order passed by the Magistrate can

be appealable before the Court of Sessions under Section 29 of the said Act. If the petitioner aggrieved over the said order he has to prefer an appeal before the concerned Court without following the above said procedures, the petitioner straightaway filed the revision petition before this Court is not at all maintainable and the revision is liable to be dismissed. The petitioner is at liberty to prefer an appeal under Section 29 of the Act, as against the order of the Magistrate.

7. In the result, the criminal revision petition stands dismissed, with liberty to the petitioner to approach the competent court by way of appeal. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar

To

The XVIII Metropolitan Magistrate, Saidapet, Chennai.

+ 1 cc to M/s. Kanimozhimathi, Advocate Sr 36764

+ 2 ccs to M/s. Swaminathan Law Associates, Advocate Sr 36771

KR/12/7/16

Crl.R.C.No.730 of 2016

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