

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.754 of 2016
and

Crl.M.P.No.5712 of 2016

P.Manavalan ... Petitioner/Respondent

Vs.

M.Vinothini ... Respondent/Petitioner

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, praying to set aside the order made in C.M.P.No.1554 of 2016 in M.C.No.43 of 2015, dated 12.05.2016 on the file of the Judicial Magistrate, Sirkali.

For Petitioner : Mr.S.Kumara Devan

For Respondent : Mr.OM Sai Ram

ORDER

This Criminal Revision Case is directed against the order dated 12.05.2016 passed by the learned Judicial Magistrate, Sirkali, in C.M.P.No.1554 of 2016 in M.C.No.43 of 2015, filed under Section 23(1) of the Protection of Women from Domestic Violence Act, 2005, ordering to pay compensation of Rs.6,000/- per month to the respondent herein/wife and a sum of Rs.3,000/- per month to the child towards interim maintenance from the date of petition i.e., from 22.04.2016 onwards.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. The learned counsel appearing for the petitioner would contend that the trial Court, without considering the counter statement filed by the petitioner/husband to prove his case and without considering the documents produced to prove the income of the petitioner, had erroneously passed the order granting interim maintenance and hence, the order passed by the learned Judicial Magistrate, Sirkali, may be set aside and the Criminal Revision Case may be allowed.

4. The learned counsel appearing for the respondent would contend that the learned trial Judge, after analysing the entire evidence and documents produced by the parties, came to a correct conclusion and awarded interim maintenance to the respondent/wife and her child and hence, the learned counsel prayed that the criminal revision case may be dismissed.

5. In this case, the learned Judicial Magistrate, Sirkali, has passed the order on 12.05.2016 granting interim maintenance on the petition filed under Section 23(1) of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the said Act). It is appropriate to extract Section 23(1) of the said Act.

"23. Power to grant interim and ex parte orders.- (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper."

6. Further, in this case, the order passed by the learned Judicial Magistrate, Sirkali, is appealable under Section 29 of the said Act, which reads 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."

7. On a reading of Section 29 of the said Act, it is made clear 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, Sirkali, the petitioner has preferred the present criminal revision case before this Court and hence, the criminal revision case is liable to be dismissed.

8. 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/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jr1

To

1.The Judicial Magistrate,
Sirkali.

2.The Chief Judicial Magistrate,
Sirkali. (For information)

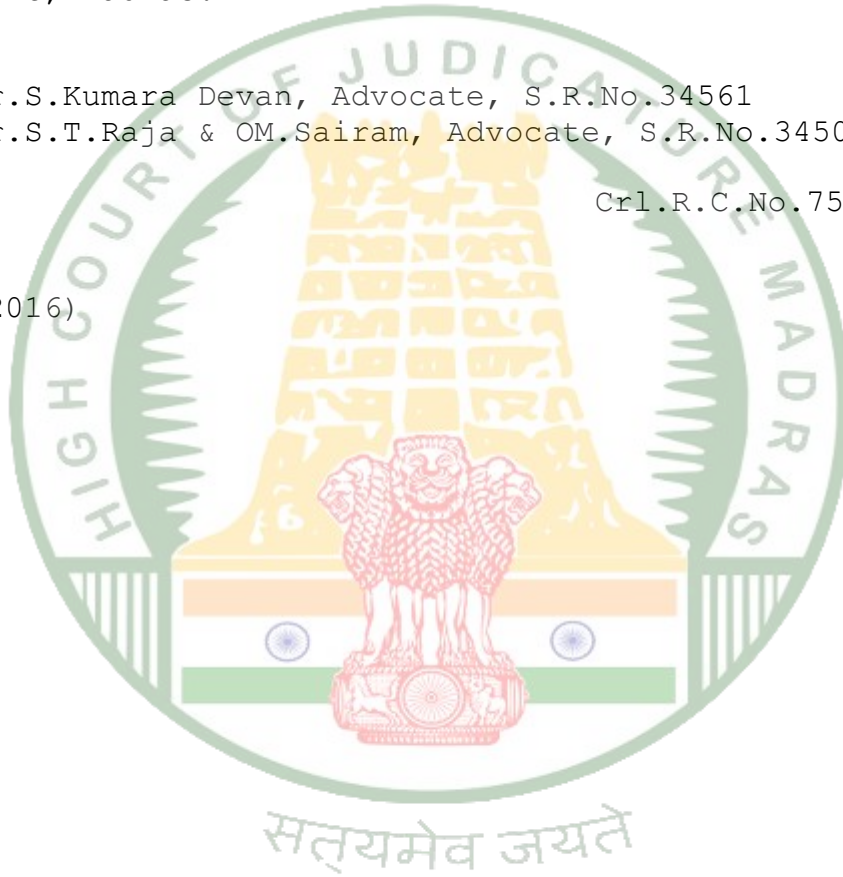
3.The Section Officer,
E.R.Section,
High Court, Madras.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.34561

+1cc to Mr.S.T.Raja & OM.Sairam, Advocate, S.R.No.34509

Cr1.R.C.No.754 of 2016

CTK(CO)
CA(01/07/2016)



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