

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.976 of 2016
and
Crl.M.P.No.7772 of 2016

D.Velmurugan

.. Petitioner

Vs.

Narmatha

.. Respondent

Prayer :- Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., against the order dated 11.02.2016 made in Crl.M.P.No.63 of 2015 in Crl.M.P.No.7755 of 2014 on the file of the learned Judicial Magistrate No.III, Erode, and prays to set aside the same.

For Petitioner : No Appearance

ORDER

This criminal revision case is directed against the order dated 11.02.2016 passed by the learned Judicial Magistrate No.III, Erode, in Crl.M.P.No.63 of 2015 in Crl.M.P.No.7755 of 2014.

2. The respondent herein has filed a petition in Crl.M.P.No.63 of 2015 in Crl.M.P.No.7755 of 2014, under Section 20 of the Protection of Women from Domestic Violence Act, seeking interim maintenance from her husband/revision petitioner herein. The learned Judicial Magistrate No.III, Erode, by order dated 11.02.2016, awarded a sum of Rs.10,000/- per month to the respondent herein/wife towards house rent and medical expenses, food and clothing; Rs.10,000/- per month to the daughter Maumitha, aged about 8 years towards educational expenses, food, clothing and medical and other expenses and Rs.5,000/- per month to the another daughter by name Indhusri, aged about 1 1/2 years towards educational expenses, food, clothing and medical and other expenses and directed the revision petitioner/husband to pay the amount on or before 5th of every month. As against the said order, the present criminal revision case is preferred by the revision petitioner/husband.

3. In this case, the learned Judicial Magistrate No.III, Erode, has passed the order on 11.02.2016 granting interim maintenance on the petition filed under Section 20 of the Protection of Women from Domestic Violence Act, (hereinafter referred to as the said Act). The order passed by the learned

Judicial Magistrate No.III, Erode, is appealable before the Court of Sessions under Section 29 of the said Act.

4. 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."

5. 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, aggrieved over the order passed by the learned Judicial Magistrate No.III, Erode, the present criminal revision case is preferred by the revision petitioner/husband. The revision petitioner has every right to prefer an appeal before the Court of Sessions, but without following the above said procedure, the petitioner, straightaway, filed the criminal revision case before this Court which is not at all maintainable and therefore, the criminal revision case is liable to be dismissed.

6. 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 IV)

/true copy/

Sub Asst. Registrar

To

The Judicial Magistrate No.III,
Erode.

ctr(co)
krd 11/8

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