

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.R.C.M.P.No.1497 OF 2016

In

Crl.R.C.No.2637 OF 2013

AND

Crl.R.C.No.3367 OF 2015

COMMON ORDER:

Crl.R.C.No.2637 of 2013 preferred against the impugned judgment dated 14.11.2013 in Crl.A.No.349 of 2013 passed by the V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad arising out of the common order dated 30.03.2013 passed in Crl.M.P.Nos.474 and 1097 of 2012 in D.V.C.No.236 of 2012 was disposed of on 24.06.2014 after elaborate discussion on merits directing to maintain existing status quo if not occupied already to pass an order or otherwise upholding order of the Magistrate thus enhancement of the amount from Rs.4,000/- to a reasonable sum of Rs.6,000/-, but for above with a direction without prejudice to the rights of DVC lis and existing priorities before the trial Court to give disposal of DVC as early as possibly preferably within three months.

Leave about for being mentioned application filed therein for further clarification and its disposal, it is known even today that the petitioner in DVC, but for filed chief examination affidavit did not attend the cross examination completely and the docket proceedings dated 08.04.2014 shows that heard Crl.M.P.No.56 of 2014 and it was only

taken up on 24.06.2015, on that day heard both sides and posted 10.07.2015. The docket order dated 10.07.2016 shows that both parties present, CrI.M.P is pending for arguments and the case is coming for cross examination of PW.1 and at request of respondent posted to 23.07.2015. On 23.07.2015 case is posted to 06.08.2015 finally for cross examination of PW.1, failing which cross examination will be treated as nil. On 06.08.2015 both parties present and PW.1 cross examined in part, for further cross examination posted to 25.08.2015. On 04.09.2015 CrI.M.P.No.56 of 2014 orders were pronounced by dismissing the same and at request of PW.1 and due to health issues posted to 08.10.2015. On that day, PW.1 called absent and filed petition to condone her absence and it is represented by the learned counsel for the petitioner that there is a stay pending and sought adjournment to 03.11.2015. It is not known whether there was any stay granted despite direction of this Court not to proceed with the trial for disposal, and no such order is filed and on 19.11.2015 it is mentioned that as records not received and posted to 07.11.2016. On that day petitioner absent posted to 20.01.2016. On that day both parties called absent, no representation, hence posted to 15.02.2016 and later the matter was dragged on.

It is demonstrated that both parties are went on one way or the other dragging the matter without giving disposal of the main lis covered by DVC. So far as review of the order

passed in Criminal Revision Case No.2637 of 2013 is concerned, it will not squarely under Sections 18 to 25 of Act, 2005. Merely because he lost his job, he cannot ask to handover the portion of the premises in use for the shared residence of his wife, but for to consider in main case disposal of any entitlement of rent instead of providing shared residence on merits. It is for that reason already a direction is given for disposal of main DVC without prejudice to the contest to decide on merits within three months way back in June, 2014. Thus, CrI.M.P.No.1497 of 2016 is disposed of with the above observations, without prejudice to contest of both sides in main case to decide on own merits.

So far as CrI.R.C.No.3367 of 2015, which is out come of the impugned order in D.V.C.A.No.756 of 2015 concerned, there is nothing to sit against the order, but for the parties are directed to submit to the jurisdictional Magistrate in DVC for day to day disposal of the case by recording evidence.

Accordingly, both the CrI.R.C.No.3367 of 2015 and Cr.R.C.M.P.No.1497 of 2016 are disposed of directing the trial Court to conduct trial on day to day basis and dispose of the DVC within a period of two months from the date of receipt of a copy of this order. If it is not completed from any reason within the stipulated time, it can seek extension explaining the need. The revision petitioner supra is given liberty to move application under Rule 37 of the Civil Rules of Practice or Section 126(2) Cr.P.C to dispense with the personal

appearance of all the respondents, but for one on behalf of others to represent and present. No costs.

As a sequel, miscellaneous petitions pending, if any, in the revision shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22.11.2016
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