

\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 20/2016

JITENDER SINGH

..... Petitioner

Through Mr.S.P. Sharma, Advocate.

versus

STATE & ORS

..... Respondent

Through Mr.Panna Lal Sharma, APP for the State.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **05.01.2016**

Crl.M.A. 95/2016

Application is disposed of subject to just exceptions.

Crl.M.C. 20/2016 & Crl.M.A. 94/2016

The present petition has been filed by the petitioner under Section 482 Cr.P.C. with the prayer for setting aside the order dated 11.12.2014 passed by the learned Metropolitan Magistrate, Tis Hazari Courts, Delhi vide which the interim maintenance of sum of Rs.10,000/- being composite amount was awarded. The petitioner preferred a revision petition No.02/15 before the learned Additional Sessions Judge with the application seeking condonation of delay of

75 days in filing the revision petition. The Court passed a detailed order dated 26.05.2015 while considering the application and the revision petition was dismissed being barred by limitation. Aggrieved by both the orders, the present petition has been filed.

I have heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

Perusal of record shows that the complainant bearing CC No.88/1/12 was filed by the respondent no.2-wife under the Protection of Women from Domestic Violence Act, 2005 and thereafter the matter was fixed for arguments on interim application for the grant of interim maintenance. The admitted position is that the petitioner has not filed the reply to the affidavit, whereas the respondent no.2-wife filed her affidavit which, as per the arguments by the counsel for the petitioner, is alleged to be false. After the passing of the order dated 11.12.2014 by the learned Metropolitan Magistrate, the petitioner did not file any petition against the order and the execution proceedings started. The objections of the petitioner were rejected on 15.07.2015. The petitioner also filed the revision petition on 23.03.2015 seeking condonation of delay in filing

the revision petition. The order dated 26.05.2015 passed by the learned Additional Sessions Judge shows that the ground taken was that the petitioner applied for a certified copy of the order dated 11.12.2014 and it was made available to him on 18.02.2015. The learned Additional Sessions Judge perused the file and found that the petitioner applied for the certified copy only on 18.02.2015 and not before that and even the application was filed beyond the period of limitation. The application as well as the accompanying revision petition were dismissed.

It is pertinent to mention that a similar petition was filed by the petitioner before this Court and after advancing some arguments, the same was withdrawn on 31.08.2015 and now in the month of January, 2016, the present petition has been filed under Section 482 Cr.P.C. for quashing of the order granting interim maintenance under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

A careful perusal of the said order sheets and the circumstances shows that after filing of the petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 by the respondent no.2-wife in the year 2012, it was because of the petitioner

that the matter was not proceeding with and even the order dated 11.12.2014 was passed by the learned Metropolitan Magistrate as the petitioner did not file the statutory affidavit which was required under the law. Further lapse on the part of the petitioner is that he did not apply for a certified copy of the order dated 11.12.2014 for more than two months and the revision petition was dismissed on 26.05.2015 against which this Court had already dismissed the earlier quashing petition on 31.08.2015 and now the present petition has been filed.

It would be pertinent to mention that the complaint was filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 on 04.07.2012 and now we are in the year 2016 and the respondent no.2-wife is without any maintenance till date. Even the order passed by the learned Metropolitan Magistrate dated 11.12.2014 has not been complied with and no maintenance is being paid to the respondent no.2-wife. I do not find any substance in the present petition. More the reason, when the order dated 11.12.2014 awarding interim maintenance of Rs.10,000/- has been passed. I do not find any ground for interference under Section 482 Cr.P.C. in the present matter.

However, it is made clear that the proceedings in the complaint be concluded positively by 31.12.2016.

With the above observations, the present petition as well as application Crl.M.A. 94/2016 are disposed of.

P.S.TEJI, J

JANUARY 05, 2016
dd