

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 20.06.2017****CORAM :****THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN****Crl.R.C.No.673 of 2017
and
Crl.M.P.No.6462 of 2017**

1.Dr.Dinesh Vedanathan
2.Mrs.Juliet
3.Mrs.Rosalisyce

... Petitioners

Vs.

Mrs.Mary Cesilia

... Respondent

Criminal Revision Case has been filed under Section 397 and 401 of Cr.P.C. to set aside the judgment dated 27.01.2017 in Crl.A.No.14 of 2016 on the file of the Principal District & Sessions Court, Thiruvallur, by confirming the order passed in C.M.P.No.2065 of 2015 in D.V.No.3 of 2015 on the file of the Judicial Magistrate Court, Ambattur, dated 13.10.2015, by allowing the Criminal Revision Case.

For Petitioners : Mr.R.Marudhachala murthy

For Respondent : Mr.C.Jayaprakash

ORDER

Challenging the order, granting interim maintenance at the rate of Rs.15,000/- per moth to the respondent and her son, the present criminal revision case has been filed.

2. The respondent herein is the wife of the first petitioner. According to the respondent, the marriage between herself and the first petitioner and the respondent took place on 19.01.2007. Soon after the marriage, the first petitioner had started harassing the first petitioner suspecting her fidelity. Through the said wedlock, a male child was born to them. After the birth of the child, she left for paternal home. Thereafter, he has not took her back to the matrimonial home. Now, she is unable to maintain herself and she is living at the mercy of her parents with her son. The first petitioner is a Doctor and he has been working as Assistant Professor in PIMS, Pondicherry and he is having sufficient means to maintain the respondent. In the above circumstances, the respondent filed a petition in D.V.Act Case No.3 of 2015 seeking various relief including protection order prohibiting the first petitioner from committing domestic violence and also maintenance at the rate of Rs.50,000/- each to the respondent and her son, totaling a sum of Rs.1,00,000/-. The above said application has been pending, pending such proceedings the respondent has filed

a petition in C.M.P.No.2065 of 2015 under Section 23(1) of the Protection of Women From Domestic Violence Act, seeking interim maintenance at the rate of Rs.50,000/- each to the respondent and her son. The said application was hotly contested by the first petitioner. As per the direction of the trial court, the first petitioner herein, filed a counter expressing his willing to pay a sum of Rs.3,000/- as interim monthly maintenance till the disposal of the main case. Subsequently, the petitioners herein filed a memo seeking a direction to dispose the application on merits and requested the trial court to decide the the miscellaneous petition on merits without considering the affidavit filed by the first respondent and to permit the petitioners to contest the miscellaneous petition in accordance with law. The court below, by an order dated 13.10.2015, allowed the petition filed by the respondent herein and directed the first petitioner to pay a sum of Rs.15,000/- to the respondent and her son. Aggrieved over the said order, the petitioners filed an appeal in C.A.No.14 of 2016, before the learned Principal District and Sessions Court, Thiruvallur, alleging that the Court below, passed an order dismissing the appeal without conducting a proper enquiry and also without giving any opportunity to the petitioner. Challenging the same, the present criminal revision case has been filed.

3. Mr.R.Marudhachalamurthy, the learned counsel appearing for the petitioners would submit that even though the petitioners filed an affidavit seeking a direction to the Court below to dispose the interim application on merits. But, the Court below without giving any opportunity to the petitioners, disposed the petition and directed the first petitioner to pay a sum of Rs.15,000/- each to the respondent and her son, without any material whatsoever. Though such a ground was raised before the appellate Court, the appellate Judge has also failed to appreciate the same and without giving sufficient opportunity to the petitioners, the appellate Judge mechanically confirmed the order passed by the Court below. According to the learned counsel appearing for the petitioners the first petitioner working as Assistant Professor in PIMS Medical College and subsequently he was terminated from service and he has no means to maintain the respondent and he has to take care of his old aged parents.

4. Per contra, the learned counsel appearing for the respondent would contend that the first petitioner is having sufficient means and the parents of the first petitioner are pensioners and there is no need for the first petitioner to take care of them. The learned counsel for the respondent further submitted that the respondent and

her son have no means to maintain themselves and hence he prays for dismissed of the criminal revision case.

5. I have considered the rival submissions.

6. This Criminal Revision Case has been filed against the interim order passed by the trail court granting interim monthly maintenance to the respondent and her son at the rate of Rs.15,000/- each. It is the contention of the learned counsel appearing for the petitioners that the appellate court passed an order, mechanically accepting the contention of the respondent and without giving any opportunity to the petitioners.

7. Per contra, the learned counsel for the respondent contended that the Court below have given proper reasoning for having come to the conclusion in favour of the respondent.

8. In the light of the above, without going into the merits of the case, this Court directs the Court below to dispose the main Domestic violence case in D.V.No.3 of 2015 within in a period of three months from the date of receipt of a copy of this order. In the

meantime, the first petitioner is directed to pay the maintenance amount to the respondent and his son at the rate of Rs.6,000/- per month on or before every 5th of English calendar month and also to pay the arrears of maintenance at the rate of Rs.6000/ per month from the date of petition till today and to continue to pay the maintenance amount at the rate of Rs.6,000/- per month till the disposal of the main case. At this juncture, the learned counsel has appearing for the petitioners submitted that already the 1st petitioner paid a sum of Rs.58,000/- towards arrears. The learned counsel appearing for the respondent also admit the same. In the above circumstances, the first petitioner is directed to pay the remaining arrears of maintenance to the respondent within a period of four weeks from the date of receipt of a copy of this order. On such payment, the respondent shall withdraw the same.

8. This criminal revision case is disposed of as indicated above.

Consequently, connected M.P. is closed.

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20.06.2017

Index : Yes/no
Internet : Yes/no

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Note: Issue Order Copy on 29.08.2017

To

1. The Principal District and Sessions Judge,
Thiruvallur.

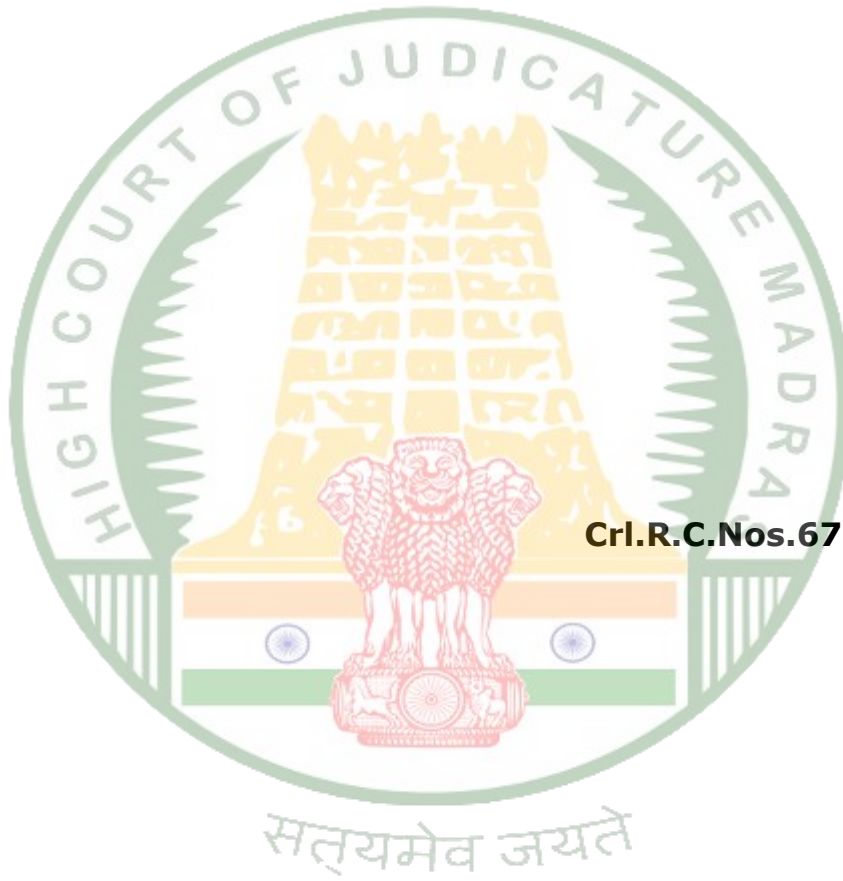
2. The Judicial Magistrate, Ambattur.



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V.BHARATHIDASAN, J.

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