



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.08.2018

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.R.C(MD)No.216 of 2018

and

Crl.M.P. (MD) No.2868 of 2018

Shanthi : Petitioner/Appellant

Vs.

J.Jesitha Athisayarani : Respondent/Respondent

PRAYER: Revision filed under Section 379 read with Section 401 of the Code of Criminal Procedure, to call for records pertaining to the impugned order dated 17.01.2018 passed in Crl.A.No.109 of 2017 in Cr.M.P.No.4994 of 2017 in M.C.No.2 of 2012 on the file of the II Additional District Sessions Court, Thoothukudi and set aside the same.

For Petitioner : Mr.M.P.Senthil
For Respondent : Mr.A.Ajith Geethan

ORDER

This Criminal Revision Case is filed against the Judgment dated 17.01.2018 passed in Crl.A.No.109 of 2017 on the file of the Second Additional District and Sessions Court, Thoothukudi, confirming the order dated 28.07.2017 made in Cr.M.P.No.4994 of 2017 in M.C.No.2 of 2012 on the file of the Judicial Magistrate's Court, Srivaikuntam.

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

3.The revision petitioner herein is the third respondent in M.C.No.2 of 2012 on the file of the Judicial Magistrate Court, Srivaikuntam, which has been filed under the Domestic Violence Act. It appears from the records that the revision petitioner herein was called absent and set ex parte on 11.02.2012. This order was known to the revision petitioner after substantial delay of about four years. Thereafter, she has filed a petition in Crl.M.P.No.4993 of 2017 on the file of the Judicial Magistrate Court, Srivaikuntam, to set aside the ex parte order and also to delete her from the petition, since she has nothing to do with the relief sought. In this petition, counter was filed by the respondent herein, who is the petitioner in M.C.No.2 of 2012 opposing to condone the delay. The trial Court has dismissed the petition stating that the delay was not properly explained. Aggrieved by the dismissal of the order dated 28.07.2017, the revision petitioner has filed an appeal in C.A.No.109 of 2017 on the file of the Second Additional District and Sessions Court, Thoothukudi. The learned District and Sessions Judge also found no merit in the appeal and dismissed the same. Hence,



aggrieved by the concurrent findings, the present criminal revision case has been filed.

4. From the representation made on the side of the respondent, this Court finds that despite passing an order against the revision petitioner for her non-appearance, the trial in M.C.No.2 of 2012 has not proceeded and still pending. The revision petitioner herein after preferring the appeal and revision, is now ready to pay the cost for the delay and contest the matter. Recording the same, the Criminal Revision Case is allowed on the following conditions:-

(i) The revision petitioner shall pay a sum of Rs.10,000/- (Rupees Ten thousand only) to the respondent herein on or before 30.08.2018. On payment of cost, the trial Court shall set aside the ex parte order passed against the revision petitioner on 11.02.2012.

(ii) The revision petitioner herein shall file her counter along with receipt of payment of cost, before the trial Court by 03.09.2018.

(iii) Thereafter, the trial Court shall fix a date for trial in this matter and complete the trial within a period of one month. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Second Additional District and Sessions Judge,
Thoothukudi.

2. The Judicial Magistrate's Court,
Srivaikuntam.

Copy to;
The Section Officer,
Criminal Section
Madurai Bench Of Madras High Court,
Madurai. (2 Copies)

CP

DS/SKN/RSK/SAR-4 : 20.08.2018: 2P/5C

ORDER MADE IN
Cr1.R.C (MD) No.216 of 2018
and

Cr1.M.P. (MD) No.2868 of 2018
20.08.2018