



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

CrI.R.C. (MD) No.437 of 2018

Ramya

...Petitioner/Petitioner

Vs.

Thangavel

...Respondent/Accused

PRAYER:Criminal Revision Petition - filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order passed by the Court of the Principal Sessions Judge, Karur in CrI.M.P.(MD)No.143 of 2018 on 07.07.2018 and allow this Criminal Revision Petition.

For Petitioner

: Mr.M.Jothibasur

For Respondent

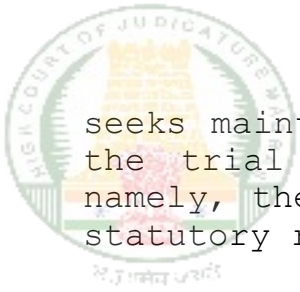
: Mr.S.Deenadhayan

O R D E R

Heard the learned counsel for the petitioner and the respondent. The revision petitioner is the wife and the respondent is the husband. The petition under the Protection of Women from Domestic Violence Act, 2005 seeking maintenance was dismissed by the Court below on the ground that the revision petitioner is having income of her own and she has separated from her husband on her own and the petition for maintenance has not been filed in good intention. Against the order of dismissal in CrI.M.P.(MD)No.2297 of 2017 on 14.12.2017, an appeal was preferred by the petitioner with the delay of 20 days in CrI.M.P.(MD)No.143 of 2018 on the file of the learned Principal Sessions Judge, Karur. It was also dismissed on the ground that the reason stated by the revision petitioner for delay is not proved. Aggrieved over the same, the present criminal revision case has been filed.

2. Though she has received the order copy on 19.12.2017 and participated in the DVOP proceedings before the learned Judicial Magistrate No.II, Karur on 19.01.2018, she has not preferred the appeal in time, but has given a false reason that she has gone to Madurai and stayed at Madurai for some time, therefore, she was unable to meet her counsel and give instructions to file appeal within the stipulated time.

3. The learned District Judge is right in pointing out the falsity in the affidavit for condoning the delay. However under the Protection of Women from Domestic Violence Act, 2005, if the wife



seeks maintenance, and the application for maintenance negatived by the trial Court, the appeal is statutorily provided. Reasons, namely, the delay of twenty days should not stand in the way of her statutory right.

4. To provide opportunity to the revision petitioner and the same time to compensate the hardship made to the respondent, this petitioner is allowed on terms. Accordingly, this Criminal Revision Petition is allowed on condition that the petitioner shall pay a sum of Rs.5,000/- [Rupees Five Thousand only] to the respondent within a period of fifteen days from the date of receipt of a copy of this order. On such payment, the condone delay petition in Cr.M.P.No.2297 of 2017 on the file of the learned Principal Sessions Judge, Karur shall stand allowed. On production of the receipt of payment, the learned Principal Sessions Court, Karur shall number the appeal, if it found otherwise in order and dispose the appeal on merits.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-I)

ta

To

The Principal Sessions Judge,
Karur.

+1cc to Mr.M.JothiBasu, Advocate in SR No.81889
+1cc to Mr.S.Deenadhayalan, Advocate in SR No.81936

Crl.R.C. (MD) No.437 of 2018

NM/PM/SAR 1/03.10.18/2P/4C