

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.7677 OF 2018

ORDER:

This petition is filed challenging the condition, dated 28.03.2018, imposed by the Principal District & Sessions Judge at Srikakulam, in CrI.R.P.No.42 of 2017 while allowing the Criminal Revision Petition directing to deposit 50% of the arrears of amount imposed as per the order, dated 13.04.2016, passed by the Special Judicial Magistrate of First Class, Prohibition and Excise, Srikakulam, in DVC No.19 of 2015, and further directed respondent to pay 50% of the maintenance to the respondents every month till disposal of the main case and to proceed with the trial of the case after issuance of notice to both the parties.

2. This condition is under challenge in this petition under Section 482 CrPC on various grounds, mainly, on the ground that the condition imposed by the Sessions Judge in CrI.R.P.No.42 of 2017, dated 28.03.2018, is onerous.

3. The respondent filed DVC under Section 12 of the Protection of Women from Domestic Violence Act, which is a special remedial enactment enacted for speedy redressal of the grievances of the persons aggrieved, who are subjected to domestic violence. The act itself is a complete code and the act provides an appeal to the Sessions Court against any order passed by the Magistrate, as per Section 29. Therefore, the order passed by the Magistrate in DVC No.19 of 2015 is amenable to the jurisdiction of the appellate court i.e., the

Sessions Judge, but it is not a revisable order exercising power under Section 397 CrPC. Therefore, the very order passed by the Sessions Judge, entertaining the revision under Section 397(1) CrPC setting aside an order of the court is an illegality and contrary to the purport of Section 29 of the Act. Hence, the condition imposed by the Sessions Court while setting aside the order passed by the Magistrate in DVC No.19 of 2015 is an illegality and the impugned order passed by the Sessions Judge in CrI.R.P.No.42 of 2017 is, accordingly, set aside. However, petitioners are at liberty to file appropriate appeal invoking Section 29 of the Act.

4. Accordingly, the Criminal Petition is allowed and the order, dated 28.03.2018, passed by Principal District & Sessions Judge at Srikakulam, in CrI.R.P.No.42 of 2017 is set aside.

As a sequel, the miscellaneous applications, if any, shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY

July 24, 2018
LMV