

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.562 of 2018

V.Vinod Kumar

...Petitioner

versus

V. Aruna devi

...Respondent

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 15.03.2018 passed in D.V.No.7 of 2014 on the file of the learned Judicial Magistrate, Ambattur and call for the entire records.

For Petitioner : Mr.B.Viveka Vanan

For Respondent : Ms.S.Sridevi

O R D E R

This Criminal Revision is filed against the order of the learned Judicial Magistrate, Ambattur in D.V.No.7 of 2014 dated 15.03.2018.

2. By the said order dated 15.03.2018, the learned Magistrate has given direction to the petitioner herein, who was the respondent in D.V.No.7 of 2014, to pay a sum of Rs.7000/- to the respondent herein. Challenging the said order, the revision petitioner has preferred the present revision before this Court.

3. Today, when the matter is taken up for hearing, the learned counsel for the respondent has raised an objection as to the maintainability of the revision itself. According to her, the order was passed by the learned Magistrate under the Domestic Violence Act. As per section 29 of the D.V. Act, such orders are appealable under section 29 of Act before the Sessions Court only. The learned Counsel would further submit that the petitioner has chosen to approach this Court by way of the present revision and the same is not maintainable and this Court shall dismiss the same. In support of his contention, the learned counsel for the respondent had relied upon the judgment of this Court in Crl.RC.No.71 of 2015 dated 04.07.2017.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. In the present case on hand, the learned Magistrate has given direction to the revision petitioner in D.V.No.7 of 2014, to pay a sum of Rs.7,000/- per month to the respondent. As against the same, the revision petitioner has filed the present revision. As per Section 29 of the Act, the aggrieved parties can file appeal against the order passed by the learned Magistrate before the Courts of Sessions within a period of 30 days. There is a clear statutory remedy provided under the Act. As rightly pointed out by the learned counsel for the respondent, the petitioner cannot invoke the revisional jurisdiction of this Court, when appeal remedy is available to the petitioner.

Section 29 of the Act is extracted hereunder:

"29.Appeal-There shall lie an appeal to the Court of Sessions within 30 days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later."

6. It is seen that while granting interim stay at the time of admission, this Court directed the revision petitioner to deposit 50% of the arrears of the award amount on the date of granting stay. The revision petitioner has also complied with the said order. Subsequently, the respondent withdrawn the said amount and now the counsel for the respondent vehemently objected the jurisdiction of this Court. Therefore, the respondent/wife is directed to re-deposit the entire sum of Rs.2,15,000/- to the credit of the learned Judicial Magistrate, Ambattur, in D.V.No.7 of 2014 within a period of 15 days from the date of receipt of a copy of this order. The Court of Sessions shall entertain any appeal, if the petitioner file any appeal against the order dated 15.03.2018. While taking appeal on file, the period spent for this revision shall be excluded for the purpose of limitation.

7. The petitioner/husband is at liberty to withdraw the amount deposited by the respondent/wife.

8. With the above observations and directions, this Criminal revision case is disposed of.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rli

To

1) The Judicial Magistrate, Ambattur.

2) The Chief Judicial Magistrate, Thiruvallur.

+1 cc to M/s.S.Sridevi, Advocate, **S.R.No.24924(16/07/2019)**

+1 cc to Mr.B.Viveka Vanan, Advocate, **S.R.No.24908(13/08/2019)**

Crl.R.C.No.562 of 2018

EV(CO)
SSM(24/06/2019)
SSM(16/07/2019)
SSM(13/08/2019).



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