

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.451 of 2019
and Crl.M.P.No.6660 of 2019

1.Vijayan
2.Smitha

.. Petitioners

Vs

Preejitha

.. Respondent

Criminal revision preferred under Section 397 and Section 401 Cr.P.C. to call for the records pertaining to the ex parte order dated 31.01.2019 passed in Crl.M.P.No.4126 of 2018 in D.V.A.No.3 of 2015 on the file of the Judicial Magistrate No.I, Tirupur and to set aside the same and to condone the delay of 656 days and reopen the D.V.A. Case.

For Petitioners : Mr.P.Rajesh

For Respondent : Ms.S.Karpagapriya

O R D E R

This Criminal Revision has been preferred to set aside the order dated 31.01.2019 passed in Crl.M.P.No.4126 of 2018 in D.V.A.No.3 of 2015 by the Judicial Magistrate No.I, Tirupur.

2. For the sake of convenience, the parties will be referred to by their name.

3. Vinulal got married to Preejitha on 30.05.2014 and their marriage ran into rough weather, resulting in the spouses getting estranged. Preejitha initiated proceedings in D.V.A.No.3 of 2015 before the Judicial Magistrate No.I, Tiruppur against her husband Vinulal, father-in-law Vijayan and sister-in-law Smitha. It appears that the respondents were set ex parte in D.V.A.No.3 of 2015 on 29.08.2016 and certain reliefs were granted by the trial Court to Preejitha. On coming to know of it, Vijayan and Smitha filed Crl.M.P.No.4126 of 2018 under Section 5 of the Limitation Act to condone the delay of 656 days in filing the application to set aside the ex parte order dated

29.08.2016 in D.V.A.No.3 of 2015, which has been dismissed by the trial Court, by the impugned order dated 31.01.2019, aggrieved by which, Vijayan and Smitha are before this Court under Section 397 and 401 Cr.P.C.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

5. This Court by order dated 06.06.2019, directed the petitioners to deposit Rs.2 lakhs as ad-interim compensation to the credit of D.V.A.No.3 of 2015 before the trial Court and accordingly, the petitioners have deposited the same vide receipt dated 12.06.2019. Parties also submitted that they are willing to submit themselves for mediation.

6. In view of the above, this revision petition is allowed and the order dated 31.01.2019 passed by the learned Judicial Magistrate No.I, Tiruppur in CrI.M.P.No.4126 of 2018 in D.V.A.No.3 of 2015 is set aside and the delay of 656 days in filing the application to set aside the ex parte order dated 29.08.2016 in D.V.A.No.3 of 2015 stands condoned. The trial Court is directed to pass appropriate orders in the petition to set aside the the ex parte order dated 29.08.2016 in accordance with law. Connected miscellaneous petition is closed.

7. Learned counsel for the petitioner submitted that Vinulal is abroad and will come to India during the second week of September' 2019. Vinulal, Vijayan and Smitha, the petitioners herein and Preejitha, the respondent herein are directed to appear before the trial Court on 17.09.2019 at 10.30 a.m. On their appearance, the trial Court is directed to send them to the local mediation for arriving at a settlement.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Tiruppur.

2.The Chief Judicial Magistrate,
Tirupur.

+lcc to Mr.P.Rajesh, Advocate Sr.73669

CRL.R.C.No.451 of 2019

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