

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.25980 of 2017

and

Crl.M.P.No.14987 of 2017

K.Ravi @ Vadanayagam

... Petitioner

Vs.

S.Nandhini

... Respondent

Prayer: This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the learned VII Additional City Civil Judge, Chennai dated 06.11.2017 made in Crl.M.P.No.16947 of 2017 in Crl.Appeal No.327 of 2017 and set aside the same in so far the ordering notice alone and pass appropriate simultaneous orders.

For Petitioner : Mr.G.Jeremiah

For Respondent : Ms.E.Ezhil Caroline

ORDER

This petition has been filed challenging the order of notice passed by the Appellate Court in the stay petition filed by the petitioner in the appeal challenging the order passed in the Domestic Violence Petition.

2.The petitioner is the father and he was aggrieved by an order passed by the Additional Mahila Court, Egmore, directing the petitioner to pay a sum of Rs.2,50,000/- towards Education Fees of the respondent- son. In the appeal, the petitioner had filed a stay petition to stay the operation of the Order and the Appellate Court thought it fit to order notice in the stay petition. Aggrieved by the same, the present petition has been filed before this Court.

3. It will be relevant to extract the interim order passed by this Court dated 29.11.2017:

"Notice to the respondent,
returnable by 14.12.2017. Private Notice is
also permitted.

2.The learned counsel for the petitioner submitted that under Section 2(b) of the Protection of Women from Domestic Violence Act, 2005, a child is said to be one under 18 years of age. In the present impugned order a sum of Rs.2,50,000/- has been ordered towards educational expenses for the petitioner's son, who has crossed 18 years and since he is not a 'child' he would not be entitled for the same. This issue requires further deliberation.

3. The relief provided under Section 20 is to cover expenses of the women in her day-to-day life in the absence of any support from her husband. The scope of section may be restricted to a child below the age of 18 years alone. This aspect also requires further deliberation. The respondent has produced a bill for a sum of Rs.87,780/- towards educational expenses and fairly, submitted that he has willing to deposit some amount.

4.In my view a sum of Rs.1,50,000/- would be reasonable for the towards educational expenses for the child. Hence, there shall be an order of interim stay of the operative portion of the order dated 31.08.2017 in CMP No.685 of 2007 in D.V.C.No.4 of 2016 on the file of the Additional Mahila Court (FAC) Metropolitan Magistrate, Chennai, on condition that the petitioner shall pay the respondent herein a sum of Rs.1,50,000/- by way of Demand draft within a period of four weeks from the date of receipt of a copy of this order.

Post the matter on 14.12.2017."

4. Mr.G.Jeremiah, the learned counsel for the petitioner submitted that the petitioner has complied with the order passed by this Court and he has paid a sum of Rs.1,50,000/- to the respondent. The learned counsel further submitted that his son is now a major, aged about 19 years and therefore, the payment of maintenance to the son, who has already become a major is not contemplated under Domestic Violence Act. In other words, the learned counsel submitted that since the petitioner's son has already crossed 18 years, he will not come under the definition of child, and therefore, the main petition has to be confined itself only to the entitlement of the claim made by wife in the main Domestic Violence Petition pending in DVC No.4 of 2016.

5. The learned counsel for the respondent submitted that the boy is now studying in Engineering Course and the wife is finding it very difficult to take care of educational expenses.

6. This Court can only make a request to the petitioner to take care of the educational expenses of the son and there cannot be a positive order to that effect, in view of the fact that the son will not be entitled to claim any maintenance, since he has become a major.

7. This Court is of the considered view that no useful purpose will be served by keeping the appeal pending in view of the fact that the petitioner has complied with the interim order passed by this Court and he has paid a sum of Rs.1,50,000/- towards educational expenses of his son. In view of the same, the appeal pending in Crl.Appeal No.327 of 2017 on the file of the VII Additional City Civil Court, Chennai, is closed and the order passed by the Additional Mahila Court, Egmore in Crl.MP.No.685 of 2018 is modified to the extent of the order passed by this Court dated 29.11.2017. This Court is of the considered view that the main Domestic Violence Petition itself can be taken up for hearing and can be disposed of within a time frame.

8. This Criminal Original Petition is disposed of with a direction to the Additional Mahila Court, Egmore, to dispose of DVC No.4 of 2016 within period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

vv/kal

To

1. The VII Additional City Civil Judge,
Chennai.
2. The Presiding Judge,
The Additional Mahila Court,
Egmore

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+1cc to Mr.G.Jeremiah, Advocate SR.No.47784

+1cc to Ms.E.Ezhil Caroline, Advocate SR.No.47755

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GJ (CO)
GMY (19/07/2019)



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