

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	09.01.2020
Date of Judgment	23.03.2020

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

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Crl.RC(MD)No.898 of 2019
and
Crl.MP(MD)No.10758 of 2019

Chelladurai : Petitioner/1st Respondent

Vs.

1.Jenny : 1st respondent/Petitioner

2.Arunachalam

3.Pappa @ Veerammal

4.Selvi

5.Baskar : Respondents 2 to R5

(R2 to R5 dismissed as
not pressed, as per the
order, dated 09.01.2020)

Prayer: Criminal Revision filed under section 397 r/w 401 of the Criminal Procedure Code to set aside the order passed in Crl.R.P No.16 of 2018, dated 07.09.2019 by the III Additional Sessions Judge, Thanjavur at Pattukkottai, by confirming the order passed by the District Munsif-cum-Judicial Magistrate, Orathanadu, in MC No.4 of 2014, dated 06.03.2018.

For Petitioner : Mr.Ma.Karunanithi

For 1st Respondent : Mr.R.P. Ramachanthiran

For R2 to R5 : Not pressed
(vide order, dated 09.01.2020)

J U D G M E N T

This Criminal Revision is directed against the order passed in Crl.R.P No.16 of 2018, dated 07.09.2019 by the III Additional Sessions Judge, Thanjavur at Pattukkottai, confirming the order passed by the District Munsif-cum-Judicial Magistrate, Orathanadu, in MC No.4 of 2014, dated 06.03.2018.

2.The 1st respondent as petitioner filed an application under Section 125 Cr.P.C before the District Munsif-cum-Judicial Magistrate, Orathanadu and the same was taken cognizance in MC No.4 of 2014 and final order was passed on 06.03.2018 whereby the petitioner herein was directed to pay a total sum of Rs.7,000/- to



her as well as her minor child from the date of petition and the same has to be paid on or before 10th of every month and also an amount of Rs.2,000/- was directed to be paid as expenses. The 1st respondent/petitioner challenging the said order before the Principal Sessions Judge, Thanjavur in CrI.RP No.16 of 2018 and the same was made over to the III Additional District and Sessions Judge, Thanjavur at Pattukkottai. The said revision was allowed on 07.09.2019 thereby the learned Sessions Judge remanded the case to the trial Judge for fresh disposal to mark some documents. Aggrieved by the same, the petitioner/1st respondent is before this court.

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

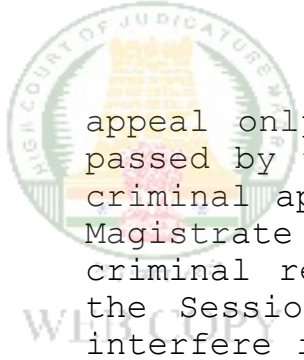
4. The main contention raised on the side of the petitioner/1st respondent is that the case was taken on file under sections 18, 19, 20, 21 and 22 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called as "DV Act") and hence, the aggrieved person has right to prefer appeal before the Sessions Court within 30 days from the date of receipt of the copy of the order, but the 1st respondent/petitioner preferred Criminal Revision before the Sessions is not correct and hence, this court has to direct the 1st respondent/petitioner to prefer appeal before the Sessions Court as against the order passed by the Judicial Magistrate and further the trial Judge has not committed any illegality and hence, the learned appellate Judge ought not to have remanded back the issue once again to the trial court and prays that the criminal revision has to be allowed.

5. It is seen that the case was taken on file under sections 18, 19, 20, 21 and 22 of the Act. The learned Judicial Magistrate ordered maintenance of Rs.7,000/- payable to the 1st respondent/petitioner by her husband namely the petitioner herein and in respect of all other reliefs, the learned Judicial Magistrate dismissed the petition filed by the 1st respondent/petitioner. The case was taken on file under the DV Act. The learned counsel for the petitioner/1st respondent submitted that appeal only lies as against the order passed by the Judicial Magistrate under Section 29 of the DV Act.

6. At this juncture, it is necessary to refer Section 29 of the Protection of Women from Domestic Violence Act, 2005, which would run thus:-

"29. Appeal 1. - There shall lie an appeal to the Court of Sessions within 30 days from the date on which the order made ready by the Magistrate is served on the aggrieved person or the respondent as the case may be whichever is later."

7. On coming the instant case on hand, the 1st respondent/petitioner preferred criminal revision before the Sessions Court. The 1st respondent/petitioner has right to prefer



appeal only before the Sessions Court. Hence, the impugned order passed by the Sessions Judge is set aside with liberty to file the criminal appeal as against the order passed by the learned Judicial Magistrate in MC No.4 of 2014 before the Sessions Court. The criminal revision preferred by the petitioner/1st respondent before the Sessions Court is not correct and hence, it is necessary to interfere into the order passed by the lower appellate court namely the III Additional District and Sessions Court, Thanjavur @ Pattukkottai.

8.In the result, this criminal revision is **allowed**. The order passed by the III Additional Sessions Judge, Thanjavur @ Pattukkottai, in Crl.R.P.No.16 of 2018, dated 07.09.2019 is set aside. The 1st respondent/petitioner is at liberty to file appeal before Sessions Court in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To,

- 1.The III Additional District and Sessions Judge,
Thanjavur at Pattukkottai.
- 2.The District Munsif-cum-Judicial Magistrate,
Orathanadu.

Crl.RC (MD) No.898 of 2019
23.03.2020

VB(04.06.2020) 3P 3C