



C.M.P.No.8510 of 2021

C.M.P.No.8510 of 2021 in
C.M.A. SR. No.41260 of 2021

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T.RAJA, J.
and
D.BHARATHA CHAKRAVARTHY,J.

(Order of this Court was delivered by T.RAJA,J.)

This petition is filed to condone the delay of 269 days in filing the appeal as against the order dated 08.04.2019 passed by the V Additional Family Court, Chennai in I.A. No.976 of 2018 in H.M.O.P. No.2183 of 2012.

2.Learned counsel appearing for the petitioner/husband submitted that the petitioner has filed the above petition in H.M.O.P. No.2183 of 2012 before the V Additional Family Court, Chennai dissolving the marriage solemnised between the petitioner and the respondent on 02.02.1996 under Section 13(i)(ia) of the Hindu Marriage Act, 1955 on the ground of cruelty. During the pendency of the divorce petition, the respondent wife filed an Interim Application in I.A. No.976 of 2018 under Section 24 of the Hindu Marriage Act seeking monthly maintenance of Rs.40,000/- and Rs.30,000/- for her and her son. Learned counsel appearing for the petitioner further submitted that the petitioner/husband is taking care of his daughter,



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aged about 24 years, whereas the respondent/wife is taking care of her son, aged about 20 years, who is pursuing his studies. However, the V Additional Family Court, Chennai, by partly allowing the application filed by the respondent, directed the petitioner to pay a sum of Rs.15,000/- per month to the respondent towards interim maintenance. Learned counsel appearing for the petitioner further submitted that after the order was passed on 08.04.2019 by the V Additional Family Court, Chennai, since the petitioner was in the business tour, he returned to Chennai only in the 2nd week of July and due to hectic journey, he was not keeping well for some time. Thereafter, when he applied for copy application on 01.08.2019, the same was made ready on 16.08.2019 and in the month of August 2019, the petitioner's mother was admitted in ICU at Sri Balaji Hospital, due to cardiac arrest. Since she was completely bedridden, the petitioner was constrained to take care of her. Immediately, when the petitioner contacted his counsel, due to Covid-19 pandemic situation, he was not able to prefer the appeal in time. Hence, there is a delay of 269 days in filing the appeal, which is neither willful nor wanton, only due to the bonafide reasons. Therefore, learned counsel appearing for the petitioner prays for condoning the delay.



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3.A counter affidavit has been filed by the respondent opposing the prayer for condoning the delay. Reiterating the averments made in the counter affidavit filed by the respondent, learned counsel appearing for the respondent submitted that since the delay has not been sufficiently explained, the delay is un-condonable.

4.It is not in dispute that the petitioner is taking care of his daughter, aged about 23 years and the respondent is taking care of her son, aged about 20 years. Therefore, the V Additional Family Court, Chennai has entertained the prayer for monthly maintenance and directed the petitioner to pay a sum of Rs.15,000/- per month to the respondent towards interim maintenance. Since the merits of the case has to be decided in the appeal, we are inclined to condone the delay, as the reasons mentioned in the affidavit stating two reasons namely, petitioner's mother has been admitted in I.C.U. at Sri Balaji Hospital and the Covid-19 pandemic situation, are acceptable. Accordingly, this petition is allowed and the delay is condoned.

(T.R.,J.) (D.B.C.,J.)
09.12.2021

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