



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :16.08.2021
CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.443 of 2021
and
Crl.M.P.No.7175 of 2021

1. G. Saravanan Kumar,
S/o, M.Govindaraj
2. M.Govindaraj,
S/o, G.Muthukrishna Naidu ... Petitioners/ Respondents

Versus

M. Amala
D/o P.Mohandoss ... Respondent/ Petitioner

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 09.04.2021 made in Crl.M.P.No.2980 of 2019 in C.A.S.R.No.2277 of 2019 on the file of the learned Principal Sessions Judge, Tiruvallur.

For Petitioners: Mr.P.M.Duraiswamy
For Respondent : Mr.N.Manoharan

ORDER

This Criminal Revision Petition has been filed by the petitioners to call for the records and set aside the order dated 09.04.2021 made in Crl.M.P.No.2980 of 2019 in C.A.S.R.No.2277 of 2019 on the file of the learned Principal Sessions Judge, Tiruvallur.

2. The petitioners herein are the respondents and the respondent herein is the petitioner before the Judicial Magistrate at Ambattur in D.V.C.No.21 of 2016

3. The respondent filed the complaint under Domestic Violence Act against the petitioners before the Protection Officer and based on the report of the Protection Officer, the complaint was taken on file by the Judicial Magistrate, Ambattur in D.V.C.No.21 of 2016. After the enquiry, the learned Magistrate dismissed the complaint filed by the



respondent. Challenging the same, the respondent has filed the appeal before the learned Principal Sessions Judge, Tiruvallur and since there was a delay in filing the appeal, she filed the petition in Crl.M.P.No.2980 of 2019 to condone the delay in filing the appeal. That petition was allowed by the learned Principal Sessions Judge, Thiruvallur and taken the appeal on file in Crl.A. No.33 of 2021 and the same was made over to the Additional Sessions Judge, Poonamallee and the same is pending before the Additional Sessions Judge, Poonamalle. Now challenging the said order passed by the Principal Sessions Judge, Tiruvallur in Crl.M.P.No.2980 of 2019, the respondents therein/ petitioners herein have filed the present revision petition before this Court.

4. The learned counsel for the petitioners would submit that the reason assigned in the affidavit in Crl.M.P.No.2980 of 2019 is not true and the same is false and there is no sufficient reasons to condone the delay. The learned Principal Sessions Judge, Tiruvallur failed to appreciate the affidavit filed by the respondent and simply allowed the petition and condoned the delay on the ground of sympathy. Even after passing the order by the Magistrate, the respondents in D.V.C.No.21 of 2016 appear before the family court in the matrimonial proceedings and therefore she proceeded with the case. Therefore the reasons assigned in the affidavit to the Crl.M.P.No.2980 of 2019 is false. The learned Principal Sessions Judge failed to appreciate the same and therefore the impugned order passed by the learned Sessions Judge is liable to be set aside.

5. The learned counsel for the respondent would submit that the learned Principal Sessions Judge, Tiruvallur condoned the delay and ordered the same on payment of costs of Rs.1000/- and it was posted for compliance. Before the date of compliance, since the petitioners' counsel received the cost and the order of the court was complied with. Therefore the Principal Sessions Judge, Tiruvallur allowed the Crl.M.P.No.2980 of 2019 and taken the appeal on file in Crl.A.33 of 2021 and made over the case to the Additional Sessions Judge, Poonamallee. At this stage, the petitioners have approached this Court by way of this Revision Petition after receiving the payment of cost. Therefore the Revision is not maintainable.

6. For which the learned counsel for the petitioners would submit that he has taken one of the grounds in this Revision as well as explained the reason for receiving the costs also. He further submitted that the petitioners simply instructed his counsel not to receive the costs and want to file the revision challenging the impugned order. Despite the same, the Junior Counsel without knowing the facts and without the knowledge of Senior Advocate, received the cost, for which the petitioners cannot be mulcted. He has given proper reasons in the grounds of revision and therefore the



disposed of on merits, the observations made by this Court would not bind on any other case. With the abovesaid directions, the Revision Petition is disposed of. Consequently, connected miscellaneous petition is also closed.

WEB COPY

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,
Principal Sessions Court,
Tiruvallur.
- 2.The Additional Sessions Judge,
Additional Sessions Court,
Poonamalle.
- 3.The Judicial Magistrate,
Ambattur, Chennai.

+1cc to Mr.P.M.Duraiswamy , Advocate SR.No. 40618
+1cc to Mr.N.Manoharan, Advocate SR.No. 40703

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KJ(CO)
BVC(17.08.2021)