



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.512 OF 2021

M.Sonashri

.. Petitioner

Vs.

S.Ramesh

...Respondent

Prayer :-

Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order in M.P.No.555 / 2021 in M.C.No.9 / 2019 dated 26.03.2021 on the file of Judicial Magistrate, No.2 Poonamallee.

For Petitioner : M/S.S.Sridevi (NA)

ORDER

(The case has been heard through video conference)

The Criminal Revision has been filed against the order in C.M.P.No.555 of 2021 in M.C.No.9 of 2019 dated 26.03.2021 passed by the learned Judicial Magistrate, Poonamallee.

2. The petitioner is wife and the respondent is her husband. The petitioner/wife had filed a petition for maintenance in M.C.No.9 of 2019 against the respondent/husband before the Judicial Magistrate-II, Poonamallee and the said petition was ordered ex-parte. Thereafter, the respondent / husband filed a petition to set aside the ex-parte order and there was a delay of 473 days in filing the petition and thereby, the petitioner also filed a petition in CMP No.555 of 2021 to condone the delay in filing the petition and the same was allowed and the delay was condoned. Challenging the same, the petitioner/wife has filed the present revision before this Court.

3. The matter is coming for admission today (27.08.2021) and there is no representation for the petitioner.

4. Perusal of record shows that the respondent / husband filed a petition to set aside the ex-parte order along with a



petition in CMP No.555 of 2021 to condone the delay of 473 days. The learned Magistrate while considering petition to condone the delay, has observed that only in order to give opportunity to the respondent/husband, the delay was condoned. Since, the order passed by the learned Magistrate is only an ex-parte order, the petitioner / wife could very well contest the MC case and get an order of maintenance.

5. The Magistrate has observed that only to give an opportunity to the respondent / husband, the delay was condoned. Therefore this Court does not find any perversity in the order passed by the learned Magistrate. Therefore, there is no merit in this case. Further, condoning the delay is purely a discretionary power of the Court. Unless there is arbitrariness or malafidness in condoning the delay, the revision Court need not interfere.

6. Therefore, considering the facts and circumstances of the case, this Court is not inclined to interfere with the order of the Magistrate. Further, the maintenance case is pending from the year 2019. Therefore, the learned Judicial Magistrate-II, Poonamallee, is directed to expedite the enquiry in M.C.No.9 of 2019 and dispose the case within a period of 3 months from the date of receipt of copy of this order. Further, both the parties and their counsels are directed to extend their co-operation in disposing the maintenance case within the stipulated time.

7. With the above observation, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dsn/ksa-2

To

The Judicial Magistrate,
Poonamallee.

Criminal Revision Case No.512 of 2021

GSM(CO)
PM/28/09/2021