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Crl.R.C.No.597 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.597 of 2021
and Crl.M.P.No.9908 of 2021

1.Sridhar
2.Umachandran
3.Devika

...Petitioners

..VS..

1.Yamini
2.Minor Nireksha
(Minor represented by her mother
and natural guardian)

... Respondents

Criminal Revision Case filed under Sections 397(1) and 401 Cr.P.C to set aside the order dated 20.04.2021 passed by the learned Principal District Judge, Coimbatore in Crl.M.P.No.4334 of 2019.

For Petitioners : Mr.L.Mouli
For Respondents : Mr.T.K.S.Gandhi

ORDER

This revision case has been preferred challenging the order dated 20.04.2021 passed in Crl.M.P.No.4334 of 2019 by the learned Principal District Judge, Coimbatore.

Page No.1/6



Crl.R.C.No.597 of 2021

WEB COPY

2. The respondents herein filed a Domestic Violence case in D.V.A.No.17 of 2014 before the learned Judicial Magistrate No.I, Coimbatore against the petitioners herein and the same was partly allowed. Challenging the said order, the respondents herein filed a miscellaneous petition in Crl.M.P.No.4334 of 2019 before the learned Principal District Judge, Coimbatore to condone the delay of 367 days in filing the appeal and the same was allowed with costs. Aggrieved by the same, the petitioners have preferred the present revision petition.

3. The learned counsel for the petitioners would submit that though the petitioners and respondents herein are parties in other matrimonial proceedings. The learned counsel for petitioners would submit that after dismissal of the Domestic Violence Petition, the respondents filed maintenance case and the first respondent was attending every hearing before the Family Court but she has failed to file the appeal in time. The learned counsel would further submit that though the first respondent has stated in her affidavit that due to her illness she was unable to



Crl.R.C.No.597 of 2021

instruct her counsel to prepare the appeal within in a stipulated time and the delay is neither wanton nor wilful, the first respondent appeared before the Family Court for attending the other matrimonial proceedings and hence, the respondents cannot take the plea that the first respondent is not well. The respondents have not chosen to mention any valid reason to condone the delay and hence, the order passed by the Court below is liable to be set aside.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents and also perused the materials available on record.

5. It seems that after careful perusal of the records, the Court below condoned the delay and taken the appeal on file. Now the appeal is pending for consideration. Since the present revision is filed against the order of condoned the delay, which is purely discretionary power of the Court, unless there is an arbitrary in exercise of discretionary power, the



CrI.R.C.No.597 of 2021

WEB COPY

revision Court would not entertain the same by exercising the revisional jurisdiction.

6. Though the learned counsel for the petitioners admitted that other proceedings are pending between both the parties, if the delay is condoned, the respondents would get opportunity to defend their case and therefore, no prejudice would be caused to the petitioners.

7. Since the appeal is taken on file and the same is pending, the petitioners are at liberty to take all his defence in the appeal itself.

8. In the result, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

10.10.2022

Index: Yes/No
Speaking Order/Non-Speaking Order
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Page No.4/6



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CrI.R.C.No.597 of 2021

To

1.The Pricipal District Judge,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.597 of 2021

P.VELMURUGAN, J.

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Crl.R.C.No.597 of 2021
and
Crl.M.P.No.9908 of 2021

10.10.2022

Page No.6/6