



CrL.R.C(MD)No.551 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.11.2022

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGO VAN

CrL.RC(MD)No.551 of 2022

and

CrL.M.P(MD)No.6823 of 2022

Kavitha

... Petitioner

Vs

Ravishankar

... Respondent

Prayer: This Criminal Revision Petition filed under Section 397(1) and 401 of Cr.P.C., praying to call for the records and set aside the order dated 16.05.2022, passed by the I Additional District and Sessions Judge (PCR), Trichy in CrL.M.P No. 1591 of 2021 in CrL.A No. 21 of 2022 against the order passed by the Additional Mahila Court, Trichy.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.A.Joel Paul Antony



CrI.R.C(MD)No.551 of 2022

ORDER

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This Criminal Revision Case has been filed to set aside the order, dated 16.05.2022, passed by the I Additional District and Sessions Judge (PCR), Trichy in CrI.M.P No. 1591 of 2021 in CrI.A No. 21 of 2022 against the order passed by the Additional Mahila Court, Trichy.

2.The facts in brief is as follows:

The marriage between the husband/respondent and wife/revision petitioner was performed on 09.06.2014, as per the Hindu religious and customs. A female child was born on 14.08.2015. According to the wife, right from the date of marriage, for want of dowry, she was harassed and ill-treated by the family members of her husband. Due to ill-treatment, the wife was forced to leave her matrimonial home. Because of the matrimonial dispute between them, D.V.O.P.No. 33 of 2017 was filed by the wife before the Additional Mahila Court, Trichy, seeking various relief under Sections 12, 18, 19, 20, 21, 22 & 23 of Protection of Women from Domestic Violence Act. Though the said petition was resisted by the husband, stating that only his wife's relatives had ill-treated and tortured him as if his wife is more qualified than him, the trial Court by the order dated 30.11.2021, allowed the petition.



CrI.R.C(MD)No.551 of 2022

3.Challenging the above said order, the husband/respondent filed CrI.A.No.21 of 2022 and during the pendency of appeal, he filed CrI.M.P.No. 1591 of 2022, which was allowed by the lower appellate Court, by staying further proceedings, in the execution petition, which was filed by the wife before the trial Court.

4.Now, this revision has been preferred by the wife and child, on the ground that while passing the interim order, stay has been granted for the execution proceedings by the lower appellate Court, without taking into account the fact that DVOP petition was filed in the year 2017 and order was passed only in the year 2021, by directing the husband/respondent to pay the maintenance amount. Till date, the same has not been paid by the husband/respondent to the wife and children and they are not able to meet out their livelihood.

5.According to her, 50% of arrears of maintenance amount ought to have been ordered to be deposited by the appellate Court. The grievance of the revision petitioner is a reasonable one. According to her, as on date, Rs.6.64 lakhs arrears of maintenance remains to be paid by the husband/respondent. Per contra, it is submitted by the respondent that as per Section 397(2) Cr.P.C no



CrL.R.C(MD)No.551 of 2022

revision is permissible against an interlocutory order and the impugned order is an interlocutory order.

6. Without going to above said technical ground, since the grievance that has been expressed by the revision petitioner is genuine and reasonable, I am of the considered view that above said order is required to be interfered since the appellate Court failed to note the precarious position of the petitioner and hence, the same can be modified by this Court by directing ***the respondent herein to deposit 50% of the arrears amount before the trial Court, within 15 days, from the date of receipt of a copy of this order. On deposit being made, the revision petitioner is at liberty to withdraw the same by following appropriate procedure.***

7. With the above said modification, this revision case is partly allowed. Consequently, connected miscellaneous petition is closed.

08.11.2022

Index : Yes/No

Internet: Yes/No

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CrI.R.C(MD)No.551 of 2022

G.ILANGO VAN, J.

PNM

ORDER IN

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