



C.R.P(MD).No.921 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.921 of 2023

and

CMP(MD)No.4253 of 2023

1.Pitchamikuthu

2.Muthiah

3.Easwari

... Petitioners/Appellants/Respondents

Vs.

1.Praveena

2.Minor Kowsika

... Respondents/Respondents/Petitioners

(Minor represented by her mother and natural guardian 1st respondent herein)

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order dated 29.09.2020 in Criminal Appeal No.51 of 2019 on the file of the learned Additional District Sessions Court, Theni, at Periyakulam, partially allowed against the order dated 12.02.2018 passed in D.V.M.C.No.2 of 2016 on the file of the District Munsif cum Judicial Magistrate Court, Aandipatti, and allow the present Civil Revision Petition.

For petitioners : Mr.K.Gokul

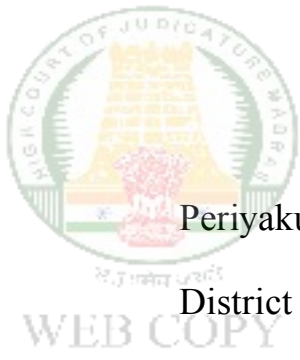


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ORDER

This petition has been filed to set aside the order passed in Crl.A.No. 51 of 2019 on the file of the learned Additional District Sessions Court, Theni, at Periyakulam, dated 29.09.2020.

2.The first petitioner is the husband and the others are in-laws of the first respondent. The records indicates that the first respondent had filed HMOP.No.211 of 2015 for restitution of conjugal rights. Whereas, the first petitioner had filed HMOP.No.77 of 2016 for dissolving the marriage. The petition filed by the respondent/wife was dismissed and the petition filed by the first petitioner for dissolving the marriage was allowed by the Sub Court, Theni, by its judgment and decree dated 19.12.2018. Mean while, the first respondent had filed D.V.M.C.No.2 of 2016 before the Judicial Magistrate Court, Andipatti, for interim maintenance and compensation etc., under the Prohibition of Domestic Violence Act. By an order dated 12.01.2018, the said D.V.M.C.No.2 of 2016 was allowed. This order is prior to the order passed on 19.12.2018 in HMOP.No.77 of 2016 filed by the first petitioner. Aggrieved by the order of the Judicial Magistrate Court, Andipatti, dated 12.01.2018, in D.V.M.C.No.2 of 2016, the petitioners has filed A.S.No.51 of 2019 before the Additional District and Sessions Court, Theni at



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Periyakulam. By the impugned order dated 29.09.2020, the Additional District and Sessions Court, Theni at Periyakulam, has modified the order dated 12.01.2018 passed by the Judicial Magistrate Court, Andipatti, in DVMC.No.2 of 2016 by directing the first petitioner to pay a sum of Rs.10,000/- alone for maintenance to the respondents. Aggrieved by the same, the petitioners have filed present Civil Revision Petition.

3.It is submitted that the Family Court has concluded that the first respondent had abused the petitioners herein and his relatives and there is no case made out for interim maintenance. The records indicates that the parties got married on 14.11.2013 and thereafter, due to matrimonial dispute, the first petitioner has filed HMOP.No.77 of 2016 for dissolving the marriage and the first respondent has filed HMOP.No.211 of 2015 for restitution of conjugal rights. During subsistence of marriage, the parties are entitled for maintenance. Therefore, the order passed by the Appellate Court, i.e., the Additional District Sessions Court, Theni at Periyakulam, in Crl.A.No.51 of 2019 dated 29.09.2020, cannot be interfered with under Article 227 of Constitution of India. That apart, the present Civil Revision has been filed belatedly after a lapse of 2 ½ years. Therefore, the impugned order dated 29.09.2020, does not call for any interference.



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C.SARAVANAN,J.

Dss

4. Accordingly, the Civil Revision Petition stands dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

05.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1. The Additional District Sessions Court,
Theni, at Periyakulam,
2. The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court, Madurai.

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