



CRP No.337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.337 of 2024 and
CMP No.1570 of 2024

F.Santhosh Louis Edison

... Petitioner

Vs.

Vennila

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order, dated 29.11.2023 passed in Crl.M.P.No.3135/2023 in Crl.Appeal CNR No.TNTM010051242023 of 2023 passed in DVC No.43/2020 by the learned Principal Sessions Judge, Tiruvannamalai.

For Petitioner

: Mr.R.Mubarak Basha



CRP No.337 of 2024

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ORDER

This Civil Revision Petition has been filed to set aside the order, dated 29.11.2023 passed in Crl.M.P.No.3135/2023 in Crl.Appeal CNR No.TNTM010051242023 of 2023 passed in DVC No.43/2020 by the learned Principal Sessions Judge, Tiruvannamalai.

2. The brief facts leading to the filing of Civil Revision petition is as follows:

The petitioner herein is the husband of the respondent. The case in DVC No.43/2020 has been initiated, based on the report filed by the Protection Officer, seeking protection order and monetary relief and compensation to the respondent. In the above case, along with other reliefs, maintenance was also ordered on 7.7.2023 by the learned Judicial Magistrate, Additional Mahila Court, Tiruvannamalai, directing the petitioner to pay a sum of Rs.15,000/- p.m. on or before 5th day of every English calendar month from the date of Domestic Incident Report i.e. 28.02.2020. Aggrieved by the above order, the petitioner has filed an appeal



CRP No.337 of 2024

WEB COPY

in CNR No.TNTM010051242023 of 2023 along with a petition in Cr.M.P.No.3135/2023 to condone the delay of 39 days in filing the appeal. The above petition was allowed by the learned Principal Sessions Judge, Tiruvannamalai on 29.11.2023, on condition of payment of 20% of the arrears of maintenance amount, as ordered by the learned Additional Mahila Judge (Magistrate level), Tiruvannamalai in DVC No.43/2020, dated 7.7.2023 to the credit of DVC No.43/2020, on or before 08.01.2024, failing which, the petition shall stand dismissed. Challenging the above order, the present civil revision petition has been filed.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. Admittedly, the petitioner herein is the husband of the respondent and in the case filed by the respondent in DVC No.43/2020, along with other reliefs, maintenance of Rs.15,000/- was also ordered by the learned Judicial Magistrate, Additional Mahila Court, Tiruvannamalai, As against



CRP No.337 of 2024

WEB COPY

the above order, the petitioner herein has filed an appeal along with condone delay petition in Cr.M.P.No.3135/2023 in CRN No.TNTMo10051242023 and the same was allowed by the learned Principal Sessions Judge, Tiruvannamalai, on condition of payment of 20% of the arrears of maintenance amount as ordered by the learned Additional Mahila Judge (Magistrate Level), Tiruvannamalai, dated 7.7.2023 to the credit of DVC No.43/2020 by the petitioner, on or before 08.01.2024, failing which, the petition shall stand dismissed. Challenging the same, the present Civil Revision petition has been filed.

5. It is the contention of the petitioner that, when the appeal itself has been filed denying the liability to pay the maintenance, without going into the merits of the case, the learned appellate forum has ordered payment of arrears, in the condone delay petition itself. Therefore, the above order is liable to be set aside. But, being the husband, the petitioner has to pay maintenance to his wife/respondent to maintain herself and he cannot deny his liability of paying maintenance. Further, since the petitioner has not



CRP No.337 of 2024

filed any affidavit, disclosing his assets and liabilities, as mandated by the Hon'ble Supreme Court in *Rajnesh Vs. Neha 2021(1) MLJ (cri) 124*, the learned Trial Judge has awarded Rs.15,000/- towards maintenance and the first appellate court has ordered to pay only 20% of the arrears of maintenance amount, to allow the condone delay petition. Therefore, I do not find any infirmity in the orders passed by the learned Appellate Forum. and hence, the civil revision petition is liable to be dismissed as it has no merits.

6. In fine, the civil revision petition is dismissed and the impugned order passed by the appellate forum is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2024

Index: Yes/No
Internet: Yes/No
mst

To

1. The Principal Sessions Judge, Tiruvannamalai.
2. The Judicial Magistrate, Additional Mahila Court, Tiruvannamali.

5 of 6



WEB COPY



CRP No.337 of 2024

V.SIVAGNANAM, J.,

mst

CRP No.337 of 2024

30.01.2024

6 of 6