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C.R.P.(PD).No.4207 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4207 of 2024
and C.M.P.No.23318 of 2024

R.Udaya Kumar

.. Petitioner

Versus

U.Anitha

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the learned VII Additional Judge, Chennai in C.A.No.311 of 2023 in Crl.M.P.No.205 of 2023 in Crl.M.P.No.12414 of 2022, dated 20.09.2023 in D.V.C.No.87 of 2021 and consequently, dismiss the application in Crl.M.P.No.205 of 2023 on the file of the learned XVIII Metropolitan Magistrate, Saidapet.

For Petitioner : Mr.M.Abdul Razack

ORDER

The respondent/wife filed D.V.C.No.87 of 2021 alleging domestic violence at the hands of the civil revision petitioner. She sought for the relief under Sections 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005. Pending disposal of the said proceeding, she took out an application in Crl.M.P.No.12414 of 2022 seeking for interim maintenance of Rs.15,000/-. Subsequently, realising that instead of asking



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for Rs.50,000/-, she had wrongly typed it as Rs.15,000/- and hence, to correct the error, she moved an application for amendment in CrI.M.P.No.205 of 2023. The learned Trial Judge allowed the application permitting the wife to amend the petition.

2. Against the said order, the husband preferred an appeal invoking Section 29 of the Act 43 of 2005 before the learned VII Additional District and Sessions Judge at Chennai. This appeal was received as CrI.A.No.311 of 2023. After hearing both the sides, the learned Judge went on to dismiss the appeal. Hence this revision.

3. Heard Mr.M.Abdul Razack for the civil revision petitioner.

4. Mr.M.Abdul Razack argues that the Protection of Women from Domestic Violence Act, 2005 does not enable the wife to amend the petition that is filed and furthermore, that there is no reason that was given by the wife while seeking for amendment.



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5. I have carefully considered the submissions of Mr.M.Abdul Razack.

6. Insofar as the first plea that there is no provision for amendment, I have to refer to Section 28(2) of the Act 43 of 2005. The said provision makes it clear that it is open to the learned Magistrate trying the domestic violence petition to follow such procedure as he deems fit in order to adjudicate the petition filed under Section 12. This shows that the limitations of the procedural Codes, Civil or Criminal, do not apply in full force to a proceeding under the Domestic Violence Act. It is open to a learned Magistrate to follow such procedure as it is necessary for the purpose of disposal of the said petition. Having given this finding, I now turn to the merits of the case.

7. Originally, when the respondent/wife preferred D.V.C.No.87 of 2021, she had sought for the relief as against the civil revision petitioner as well as against her son who is said to be a practicing Advocate. Subsequently, the son, the second respondent therein had settled the matter with his mother leaving open the fight only between the civil revision



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petitioner and the sole respondent. It is a plea that she had originally wanted to seek for Rs.50,000/- towards maintenance, but, at the time of drafting, it was wrongly typed as Rs.15,000/-. The proceeding is yet to see the light of trial and therefore, even if I were to apply the strict principles of Order VI Rule 17 of the Code of Civil Procedure, a party is entitled to correct the typographical error that occurs in a petition. The husband can always file a counter-statement to the amended petition stating that he is not liable to pay any maintenance to the wife, let alone her demand for Rs.50,000/-. Therefore, no prejudice is caused to the civil revision petitioner/husband.

8. In matters of maintenance, the Court does not necessarily have to give the amount that is sought for by the petitioner before the Court. If the Court deems it fit, it can always give a figure higher than what has been demanded considering the status of the parties. The error, being one of typography and since the learned Magistrate as well as the learned District Judge have concurrently rendered a finding in favour of the respondent/wife, I am not inclined to interfere.



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9. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The VII Additional District and Sessions Judge,
Chennai.
2. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.



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V.LAKSHMINARAYANAN, J.

grs

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