



Crl.RC.No.179 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.179 of 2023
and
Crl.M.P.No.1400 of 2023

1. P.Amaresan
2. P.Parvathi

... Petitioners

Vs.

S.Sumathi @ Hemalatha

...Respondent

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 20.10.2022 in Crl.M.P.No.3276 of 2019 in C.A.No.Nil of 2019 passed by the learned Principal District Judge, Vellore.

For Petitioner : Mr.S.Sathia Chandran
For Respondent : Not Ready in Notice

ORDER

This Criminal Revision Petition is filed seeking to set aside the order dated 20.10.2022 in Crl.M.P.No.3276 of 2019 in C.A.No.Nil of 2019 passed by the learned Principal District Judge, Vellore.



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2. It is the case of the prosecution is that the respondent is the wife of the first petitioner and the second petitioner is the mother of the first petitioner. The respondent filed a domestic violence case in S.T.C.No.110 of 2014 seeking maintenance and other reliefs before the trial Court and the same was allowed vide order dated 30.08.2016. Since the second petitioner was having knee problem, who is taking treatment continuously during the period from 2016 to 2019, the first petitioner could not file the appeal as against the domestic violence case as he was the only care taker of his mother. Seeking to condone the delay of 998 days in filing the appeal as against the order dated 30.08.2016 passed in S.T.C.No.110 of 2014, the petitioners filed a petition CrI.M.P.No.3276 of 2019 in C.A.No.Nil of 2019, however, the same was dismissed vide order dated 20.10.2022 on the ground that the reasons stated by the petitioners for the said delay are not valid and bonafide. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioners submits that since the second petitioner was sick and bedridden, the first petitioner could not able



to pay the maintenance as ordered by the trial Court and could not file an appeal as against the order passed in S.T.C.No.110 of 2014. He further submitted that the first petitioner was retrenched from his service on 31.03.2016. Though valid reasons were given to condone the said delay before the trial Court that the first petitioner is in an indigent position starving for his livelihood along with his mother, the trial Court without considering the same has dismissed the petition filed by the petitioner on the ground that no proper reasons have been given by the first petitioner for the delay of three years which is wholly unsustainable.

4. Though notice was served on the respondent no one appeared on his behalf. Considering the period of pendency of this petition, the same is disposed of based on the materials available on record.

5. Heard the learned counsel for the petitioner and perused the materials placed on record.

6. Admittedly the respondent filed a domestic violence case in



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S.T.C.No.110 of 2014 against the petitioners seeking maintenance and other reliefs before the trial Court and the same was allowed vide order dated 30.08.2016. On a perusal of the order dated 30.08.2016 passed in S.T.C.No.110 of 2014 reveals that, the learned District Munsif cum Judicial Magistrate, Arcot has directed the first petitioner to pay a sum of Rs.50,000/- every year towards educational expenses and other necessities to the respondent and her children which is just and reasonable. Though the first petitioner was taking care of his mother due to her health ailments, however, it is the duty of the husband to also maintain his wife and children. As the reasons stated by the first petitioner to condone the delay of three years for filing appeal against the order dated 30.08.2016 were not satisfactory, the trial Court has rightly dismissed the petition in Crl.M.P.No.3276 of 2019 in C.A.No.Nil of 2019 vide order dated 20.10.2022 which is perfectly in order and the same does not warrant any interference.

7. With the above observation, this Criminal Revision petition is dismissed. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No

Speaking order : Yes/No

NCC : Yes/No

To

The Principal District Judge, Vellore.



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M.DHANDAPANI, J.

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