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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2253 of 2024
and
CMP.No.11876 of 2024

M. Jayakumar ... Petitioner

Vs.

M. Suganthi ... Respondent

Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the order dated 01.04.2024 passed in M.P.No.1 of 2024 in Crl.A.SR.No.1551 of 2024 on the file of Principal District and Sessions Judge, Coimbatore.

For Petitioner : M/s.S.M.A.Jinnah
For Respondent : M/s. Tamilselvi Santhanaraman

O R D E R

This Civil Revision Petition has been filed to set aside the order dated 01.04.2024 passed in M.P. No.1 of 2024 in Crl.A. SR. No.1551 of 2024 on the file of Principal District and Sessions Judge, Coimbatore.

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2. This Court, on 11.07.2024, had passed the following order:

" The petitioner/1st respondent in D.V.A.No.641 of 2019 had suffered an ex-parte order.

2.The contention of the learned counsel for petitioner is that the petitioner and the respondent are husband and wife. The marriage between the petitioner and respondent held in the year 2008. At the time of marriage the petitioner was employed in Singapore and the respondent was employed as Software Engineer in Sydney, Australia. After the marriage in the year 2008, the petitioner and respondent shifted the residence to Australia. The petitioner and respondent lived happily and they were blessed with a male child on 01.07.2012. The petitioner worked as a Heavy Truck Driver in Australia and he was also contributing for the family income.

3.He further submitted that from the funds sent by the petitioner, the respondent purchased a property at Pollachi, which was developed into apartment consisting of five houses. This being so, in the year 2016, there arose difference of opinion between the petitioner and respondent for the reason that the respondent made allegation that petitioner was having relationship with an Australian lady and they got separated. The respondent came back to India in the year 2016. Thereafter in the year 2018, the respondent registered a complaint against the petitioner and a case in Crime No.18/2019 for offence under Sections 498A, 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act registered against the petitioner, his mother and sister. Later charge sheet filed. The case against the mother and sister quashed. The petitioner is facing proceedings in the Dowry Harassment Case. The petitioner from the year 2016 to 2018 had been sending Rs.50,000/- per month, which amount was used for purchase of the Pollachi property. From the year 2019 to 2024, so

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far, the petitioner has sent around Rs.31,00,000/-, which was transferred to the respondent's account in Anz Bank, Australia. Suppressing all these facts, the respondent not only lodged dowry harassment complaint, she also filed Domestic Violence Complaint in D.V.A.No.641 of 2019. The petitioner came to India on 26.12.2023. On 22.01.2024 the petitioner was arrested, on the strength of NBW in the Dowry Harassment case. Thereafter, he produced before the Magistrate and bail was granted on the same day.

4.The respondent police executed NBW issued by the Domestic Violence Court, since the petitioner not complied with the ex-parte order passed in D.V.A.No.641 of 2019. At that point of time only it came to the knowledge of the petitioner about the Domestic Violence Complaint. Thereafter the petitioner filed an appeal before the Sessions Court, Coimbatore to set aside the judgment in D.V.A.No.641 of 2019 dated 25.11.2022 and also filed a miscellaneous petition in C.M.P.No.1 of 2024 to condone the delay of 432 days in filing the appeal. The Sessions Court allowed the condone delay petition with a direction to the petitioner to deposit a sum of Rs.17,00,000/- to the credit of D.V.A.No.641 of 2019, against which, the present revision has been filed.

5.The contention of the learned counsel for petitioner is that the bank statement would prove that right from the year 2015-2024, the petitioner had been making payment of Rs.50,000/- per month to the petitioner. The conditional order in D.V.A.No.641 of 2019 is that the petitioner to pay Rs.10,000/- to the petitioner and Rs.15,000/- to his son, in total, Rs.25,000/- per month, which he already paid.

6.The learned counsel for the respondent seeks small accommodation to verify with regard to the submission made by the petitioner with the bank details and revert to this Court.

7.Post the matter on 16.07.2024"

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3. The learned counsel for the petitioner submitted that the aim of the respondent is only to harass the petitioner. The respondent has already filed three cases against the petitioner and they are (i) Domestic violence case, (ii) Dowry prohibition case and (iii) Matrimonial case. Further, pursuant to the dowry case, the Superintendent of Police, Coimbatore issued a Look Out Circular against the petitioner. Due to the LOC the petitioner was not permitted to go to Australia to take his employment and earn money. Thereafter, he made a representation to the Superintendent of Police, Coimbatore to cancel the Look Out Circular and having received the same no action was taken. Therefore, he filed a Writ petition No.3301 of 2024 seeking to withdraw or cancel the Look Out Circular issued against the petitioner. In view of the above, it is stated that the petitioner is unable to comply with the order dated 01.04.2024, which is impugned herein.

4. In continuation and conjunction to the earlier order passed on 11.07.2024, today, the learned counsel for the respondent submitted that the

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petitioner contention that the payment of the amount to her and her son together not giving credit is not proper. It is submitted that after January 2024 the petitioner has not made any payment. Further it is submitted that in the impugned order, in paragraph 10 the trial Court directed the petitioner (i) to handover 75 sovereigns of gold jewels to the respondent; (ii) to pay a sum of Rs.14,60,000/- to the respondent towards the expenses incurred in Australia; (iii) to pay a sum of Rs.15,000/- per month to their son for his educational expenses and a sum of Rs.10,000/-per month to the respondent as maintenance; (iv) to pay a sum of Rs.5,00,000/- as compensation to the respondent. The petitioner has failed to comply with the above conditions within two months from the date of judgement. Aggrieved over the same, the petitioner filed appeal with a delay of 432 days.

5. It is seen from the records that the learned Sessions Judge, directed the petitioner to deposit Rs.17,00,000/- in the condone delay petition filed by him, but failed to comply with the order. However, in view of the

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submissions made on behalf of the petitioner, this Court is inclined to modify the conditional order to deposit a sum of Rs.17,00,000/-. The petitioner is directed to pay 50% of the amount ie. Rs.8,50,000/- to the credit of D.V.A.No.641 of 2019, before the Judicial Magistrate, Special Court, Coimbatore, within a period of four months from the date of receipt of a copy of this order. On remittance of Rs.8,50,000/- by the petitioner, the learned Sessions Judge shall condone the delay and proceed to hear the appeal and pass appropriate orders on merits.

6. The respondent is entitled to withdraw the amount deposited viz., Rs. 8,50,000/- with condition that it is subject to the out come of the appeal.

7. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2024

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
Neutral Citation : Yes/No
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To

The Principal District and Sessions Judge,
Coimbatore.

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M.NIRMAL KUMAR, J.

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