



C.R.P. (PD).No. 3731 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE

V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3731 of 2024

&

C.M.P.No. 20296 & 20298 of 2024

R.Priya

...Petitioner

Vs.

T.Ravi Yadav

...Respondent

Prayer: Petition is filed under Article 227 of the Constitution of India against the order dated dated 27.06.2024 passed in C.A.No.151 of 2023 by the Principal Sessions Court, Vellore District and dismissed the order dated 27.03.2023 passed in CrI.M.P.No.10696 of 2021 in D.V.C.No.8 of 2021 by the Additional Mahila Court,



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Magisterial level, Vellore.

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For Petitioner : Mr. R.Sagadevan

For Respondent : Mr.T.Ravi Yadav
(Party-in-Person)

ORDER

This Civil Revision Petition arises against the order passed by the Principal Sessions Court, Vellore, in C.A.No.151 of 2023 dated 27.06.2024, in reversing the order passed by the Additional Mahila Court (Magisterial Level), Vellore, in CrI.M.P.No.10696 of 2021, in D.V.C.No.8 of 2021 dated 27.03.2023.

2. There is no dispute in the relationship between the parties. The petitioner is the wife and the respondent is the husband. Several proceedings are pending between the parties. The divorce petition and Guardian and Wards petition are pending before the Family Court, Vellore. A petition under Section 125 of Cr.P.C was initiated



in F.C.M.C.No.8 of 2020 on the file of the Family Court, Vellore.

The said proceedings was disposed off on 19.08.2023, fixing monthly maintenance at Rs.6,000/- per month.

3. The learned Additional Mahila Court, Vellore, in C.M.P.No.10696 of 2021, by order dated 27.03.2023, without discussing actual entitlement of the wife allowed the application directing the husband to pay a sum of Rs.50,000/- per month to the wife. The reason for fixing such a high figure is that the respondent / husband is working as a Software Auditor at Poland.

4. Aggrieved by the said order, an appeal was preferred by the husband before the learned Principal Sessions Judge, Vellore. The learned Principal Sessions Judge, Vellore, allowed the appeal, dismissing the petition for interim maintenance, by way of order dated 27.06.2024. The learned Principal Sessions Judge, Vellore, allowed the appeal on the ground that the Family Court, Vellore, had fixed a



sum of Rs.6,000/- per month as maintenance. Hence, this revision at the instance of the wife.

5. Heard, Mr.R.Sagadevan for the civil revision petitioner and Mr.T.Ravi Yadav, party-in-person.

6. Mr. T.Ravi Yadav would contend that the civil revision petition is not maintainable as against the order passed by the Principal Sessions Judge, Vellore.

7. Being an issue of maintainability, I will consider the said issue first. Under the provisions of Protection of Women from Domestic Violence Act, an appeal is provided as against the order passed by the Magistrate in terms of Section 29 of the said Act. The Act does not contemplate any further revision or appeal from the order of the learned Principal Sessions Judge to this Court. When there is no such alternate provision provided for party, any party aggrieved by



such order is entitled to initiate proceedings under Article 227 of the Constitution of India. The revisional power vested to this Court cannot be stultified by a statute. Therefore, the submission of Mr. T.Ravi Yadav that the petition is not maintainable does not deserve acceptance.

8. The second point that has been urged is that the wife having secured maintenance from the Family Court, in terms of Section 125 of the Cr.P.C is not entitled to claim maintenance under the provisions of the Protection of Women from Domestic Violence Act. In order to substantiate the same, Mr. T.Ravi Yadav would refer the following Judgements:

(i) ***B.Prakash Vs. Deepa and others*** – 2015 – 4 – LW – 545.

(ii) ***Nutan Gautam Vs. Prakash Gautam*** – 2019 (4) SCC 734.

(iii) ***Mohamed Siddiq Vs. Rasheedha Begum and others*** –

CrI.O.P.(MD)No. 1731 of 2019 dated 02.09.202.



9. If the arguments of Mr. T.Ravi Yadav is to be accepted, then the wife can claim maintenance only in one proceedings and her claim for maintenance in other proceedings is not maintainable. The position of law has been clearly laid down by the Supreme Court in **Rajnesh Vs. Neha – 2021 (2) SCC 324**. The Supreme Court in paragraph No.60 of the said order held as follows:

“60. It is well settled that a wife can make a claim for maintenance under different statutes. For instance, there is no bar to seek maintenance both under the [D.V. Act](#) and [Section 125 of the Cr.P.C.](#), or under H.M.A. It would, however, be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in a previous proceeding. If maintenance is awarded to the wife in a previously instituted proceeding, she is under a legal obligation to disclose the same in a subsequent proceeding for maintenance, which may be filed under



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another enactment. While deciding the quantum of maintenance in the subsequent proceeding, the civil court/family court shall take into account the maintenance awarded in any previously instituted proceeding, and determine the maintenance payable to the claimant.

61. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, we direct that in a subsequent maintenance proceeding, the applicant shall disclose the previous maintenance proceeding, and the orders passed therein, so that the Court would take into consideration the maintenance already awarded in the previous proceeding, and grant an adjustment or set-off of the said amount. If the order passed in the previous proceeding requires any modification or variation, the party would be required to move the concerned court in the previous



proceeding.

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10. Hence, the plea of Mr. T.Ravi Yadav that the wife is not entitled to maintenance in Domestic Violence Case is contrary to the view of the Supreme Court and hence stand rejected. Furthermore, under Section 26 (3) of the Act, it has been emphasised that the wife would have to inform the Court which is dealing with the said proceedings about the relief she has obtained in other proceedings that has been initiated by her. This shows that the Parliament itself has envisaged the situation where the wife can be provided more than one form of relief for the purpose of maintenance and it is the duty of the Court which deals with the subsequent application to set off the amount already granted by the Court in previous occasion as against the amount that is going to be ordered.

11. The view of the learned Principal Sessions Judge, Vellore, in paragraph no.20 of the order that without considering the fact that



the interim maintenance have been ordered by the Family Court, Vellore, the grant of maintenance by the Mahila Court is erroneous.

In the light of the above discussion, this view cannot be sustained.

12. All that the Magistrate would have to do while dealing with Domestic Violence Case is take into consideration the amount that has already been decided by the Family Court under Section 125 of the Criminal Procedure Code. The learned Principal Sessions Judge, Vellore, ought to have remitted the matter to the Additional Mahila Court, Vellore, to take into consideration the order passed by the Family Court, Vellore. Instead he has allowed the appeal and dismissed the application for interim maintenance.

13. Apart from the above, as pointed out by Mr.T.Ravi Yadav there is absolutely no discussion about how the learned Additional Mahila Judge, has arrived at the figure of Rs.50,000/- per month. The maintenance amount is not an amount to be paid for luxury. It should



be commensurate to the status and situation of the parties. It is not in dispute that the husband is bearing the school fees for the child. In addition, he is also paying a sum of Rs.6,000/- per month without any default. Therefore, the Court should apply its mind in order to come to the conclusion that *whether higher amount should be fixed or not* taking into consideration the necessities of life and status of the parties. A perusal of the order passed by the learned Additional Mahila Judge, Vellore in Crl.M.P.No.10696 of 2021 dated 27.03.2023 does not disclose any of these mentioned.

14. Mr. R.Sagadevan pointed out that D.V.C.No.8 of 2021, is pending at the stage of evidence. If that be the case, the learned Additional Mahila Judge, Vellore, shall take up D.V.C.No.8 of 2021 for expeditious disposal and shall conclude the proceedings within a period of four months from today. The learned Additional Mahila Judge, Vellore, shall dispose of the case taking into consideration all the observations made in this order and shall strictly follow the



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Judgement of the Supreme Court in *Rajnesh Vs. Neha*.

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15. In the light of the above discussion, the order passed by the learned Principal Sessions Judge, Vellore, in C.A.No.151 of 2023 dated 27.06.2024 is set aside. The order passed by the Additional Mahila Court (Magisterial Level), Vellore in Crl.M.P.No.10696 of 2021 in D.V.C.No.8 of 2021 is also set aside. Crl.M.P.No.10696 of 2021 is restored to the file of the Additional Mahila Court, Vellore. It is open to both the parties to let in evidence in order to substantiate their respective cases. The Additional Mahila Court, Vellore, shall consider the fact that the husband is paying a sum of Rs.6,000/- as maintenance as ordered by the Family Court, Vellore. The Additional Mahila Court, Vellore, shall dispose of the interlocutory application, within a period of four weeks, from the date of receipt of a copy of this order.

16. With the above direction, the Civil Revision Petition is



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allowed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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1.The Principal Sessions Court,
Vellore.

2.The Additional Mahila Court,
Vellore.

V.LAKSHMINARAYANAN, J.



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