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CrI.R.C.No.1454 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.1454 of 2023

And

CrI.M.P.No.12760 of 2023

1.Kumar
2.Jeyaraman
3.Chandra
4.Valli

... Petitioners

Vs.

Vijay Lakshmi

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code, seeking to set aside the order made in CrI.M.P.No.1899 of 2023 in unnumbered C.A.No. of 2023 dated 28.06.2023 by the Principal District Judge, Villupuram.

For Petitioners : Mr.M.Devaraj
For Respondent : Mr.D.Raghu

O R D E R

This criminal revision has been filed seeking to set aside the order dated 28.06.2023 passed by the learned Principal District Judge, Villupuram in CrI.M.P.No.1899 of 2023 in unnumbered C.A.No. of 2023.

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2.The facts of the case is that the first petitioner is the husband of the respondent, second petitioner is the father of the first petitioner, third petitioner is the mother of the first petitioner, the fourth petitioner is the wife of the first petitioner's brother and the respondent is the wife of the first petitioner. The marriage between the first petitioner and the respondent was solemnized on 02.10.2012 and out of the wedlock, they were blessed with one male child named Tharun. Thereafter there was a matrimonial dispute between them and the respondent sought for reliefs under Sections 18, 19, 20 and 22 of the Domestic Violence Act, on the ground that the first petitioner had extra marital affair with one Soundharya and when the respondent asked to stop the illicit relationship, the first petitioner tried to kill the respondent and that the petitioners 2 to 4 along with five others used to harass the respondent by abusing her using obscene words and that the petitioners 1 to 3 demanded dowry and hence she lodged complaint with the AWPS, Villupuram and the same was assigned CSR No.24 of 2015.

3.The case was taken on file by the learned Judicial Magistrate No.1, Villupuram in M.C.No.1 of 2015 on 05.03.2015 and was



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subsequently transferred to the file of the learned Judicial Magistrate, Additional Mahila Court, Villupuram vide proceedings of the learned Chief Judicial Magistrate in A1 No.144/2019 dated 22.11.2019 and was renumbered as M.C.No.3 of 2020. The learned Judicial Magistrate, Additional Mahila Court, Villupuram passed an exparte order on 13.04.2022 directing the first petitioner to pay a sum of Rs.3 Lakhs as compensation to the respondent and the petitioners 2 to 4/ respondents 2 to 3 and 5 therein and one Selvam/ fourth respondent therein to pay a sum of Rs.50,000/- each as compensation to the respondent and further directed the first petitioner to pay a sum of Rs.5,000/- as monthly maintenance to the respondent (Rs.3,000/- for the respondent and Rs.1,000/- for each of the minor child [the trial Court has presumed that there are two minor children, however, there is only one minor child]) from the date of petition. Challenging the same, the petitioners filed appeal before the learned Principal District Judge, Villupuram and along with it filed petition for condoning the delay of 285 days in filing the appeal and the said petition was dismissed. Challenging the same, the present revision has been filed.

4.The learned counsel appearing for the petitioners submitted



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that the petitioners have every right to adjudicate the issue before the

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lower Appellate Court, however, the lower Appellate Court without giving any opportunity to the petitioners dismissed the petition seeking to condone the delay in filing the appeal. The learned counsel further submitted that the petitioners are ready to pay reasonable cost to the respondent and the first petitioner also agree to deposit the entire arrears amount awarded towards monthly maintenance, except compensation amount, before the lower Court and prayed that this Court may set aside the impugned order and direct the Court below to number the criminal appeal and to dispose of the same within a time frame, after the petitioner deposits the entire arrears amount.

5.The learned counsel appearing for the respondent raise no serious objection.

6.Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondent.



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7.The petitioners preferred appeal as against the exparte order passed in M.C.No.3 of 2020 along with petition for condoning the delay and the same was dismissed at the condone delay stage itself, which is in clear violation of natural justice. Hence, the order dated 28.06.2023 made in CrI.M.P.No.1899 of 2023 in unnumbered C.A.No. of 2023 by the learned Principal District Judge, Villupuram, is set aside.

(i)The first petitioner is directed to deposit the entire arrears amount awarded towards monthly maintenance i.e., Rs.5,000/- from the date of petition in M.C.No.3 of 2020 to till date (10.07.2024) to the credit of M.C.No.3 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Villupuram, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. After the first petitioner deposits the arrears amount, the respondent is permitted to withdraw the entire amount lying in the credit of M.C.No.3 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Villupuram.

(ii)After the petitioner deposits the entire arrears amount, the learned Principal District Judge, Villupuram, shall number the criminal



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appeal filed by the petitioners and after providing opportunity to the petitioners as well as the respondent, shall dispose of the criminal appeal, on merits and in accordance with law, as expeditiously as possible.

(iii)The first petitioner shall continue to pay a sum of Rs.5,000/- per month to the respondent towards maintenance on or before 7th of every succeeding English Calendar Month till the disposal of the criminal appeal.

8.This revision is allowed on the above terms. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Principal District Judge,
Villupuram.

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