



C.R.P.(PD)No.4065 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.4065 of 2024
and C.M.P.No.22375 of 2024

1.Vallinayagi

2. Arulraj

3. Kalaiselvi

4. Punitha

5.Thiyagarajan

... Petitioners

-VS-

Kumari

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned order passed by the learned Principal Sessions Judge at Puducherry dated 20.06.2024 made in Cr.M.P.No.660 of 2024 in un-numbered CrI.A.No.Nil/2024.



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For Petitioner : Mr.E.V.Chandru @ E.Chandrasekaran

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ORDER

This civil revision petition arises at the instance of the 1st respondent in Crl.M.P.No.660 of 2024 in un-numbered Crl.A.No.Nil of 2024 in Crl.M.P.No.7905 of 2022 in D.V.C.No.34 of 2022. The 1st civil revision petitioner is the mother-in-law of the complainant in D.V.C.No.34 of 2022. The 1st civil revision petitioner had a son by name Giridharan. He married the respondent herein on 31.08.2014. From the wed lock, twins were born to the couple on 14.12.2015. Unfortunately, the said Giridharan went to meet his maker on 30.05.2021. Pleading that the civil revision petitioners are excluding her from the shared household, the respondent preferred D.V.C.No.34 of 2022. She has sought for several orders under Sections 18 & 19 of the Protection of Women from Domestic Violence Act, 2005 apart from the order for compensation under Section 20 of the said Act.

2. Pending disposal of D.V.C.No.34 of 2022, she moved an application in Crl.M.P.No.7905 of 2022 under Section 23 seeking for an



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order of interim maintenance. The learned Judicial Magistrate No.III at Puducherry passed an order dated 23.08.2023 ordering the civil revision petitioners to pay a sum of Rs.7,000/- per month towards alternative accommodation as per Section 18.

3. Mr.E.V.Chandru would submit that the civil revision petitioners are depositing a sum of Rs.7,000/- to the credit of CrI.M.P.No.7905 of 2022. Aggrieved by the amount that has been fixed by the learned Judicial Magistrate No.III at Puducherry, the aggrieved woman, the respondent herein has preferred an appeal before the District and Sessions Court at Puducherry. The appeal ought to have been filed before 04.10.2023. It came to be filed only on 24.01.2024. She moved CrI.M.P.No.660 of 2024 seeking to condone the delay of 112 days in preferring the appeal. The learned Judge after receiving a counter from the 3rd respondent, condoned the delay. Hence, this revision.

4. Mr.E.V.Chandru argues that the respondent has not produced any records to show that she is suffering from illness as alleged by her in the



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affidavit. He adds that there were two counsels who represented the respondent before the learned Judicial Magistrate No.III at Puducherry and only the junior counsel became the Judicial Magistrate whereas her senior is continuing his practice at Puducherry. The gist of Mr.E.V.Chandru's argument is that the petitioner has uttered falsehood and therefore she is not entitled for condonation of delay. He further pleads that as the mother-in-law has deposited the amounts as directed by the learned Judicial Magistrate No.III and the act of the respondent in filing the appeal is one of harassment. He points out that the mother-in-law has purchased the property in the name of the respondent at Korakkadu, Villianur Commune and this would show that she has no intention to harass the respondent but, at all points of time, has worked for the goodness in the family.

5. I have considered the arguments of Mr.E.V.Chandru. At the outset, I have to point out that where the delay has been condoned by a Court subordinate to this Court, its revisional jurisdiction is limited. The reason is not far to seek, it is because the authority who condoned the delay, has the benefits of seeing the parties, while considering the bona fides of the



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litigants before it. If a judgment is required for that proposition, it is in

N.Balakrishnan vs. M.Krishnamurthy, 1998 (7) SCC 123.

6. Even if I were to look into the merits of the case, it is not in dispute that Ms.Banumathi has been elevated as the Judicial Magistrate in the recently concluded Puducherry judicial officer selection examination. The petitioners plead that on account of the fact that she joined the judicial service, they changed the counsel, approached the new counsel and presented the appeal. As far as the proof of sickness, the delay is not being very enormous and considering the fact that the appeal has been presented at the instance of the widow/aggrieved person under the provisions of the Protection of Women under Domestic Violence Act, the Court has taken a lenient view. In fact, it has come to the conclusion that there is some bona fide in the pleadings that has been raised by the respondent. When the lower appellate Court has seen some bona fides in it and has exercised its discretion, I am not inclined to substitute the said discretion with mine.



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7. In the light of the above discussions, the civil revision petition is dismissed. At this stage, I have to take into consideration the plea that has been recorded hereinabove regarding the steps that have been taken by the 1st civil revision petitioner for normalising her relationship with the widowed daughter-in-law. The learned Principal District and Sessions Judge at Puducherry is requested to refer the matter for the District Mediation Council attached to the said Court in order to probe the possibility of settlement by mediation. In case the mediation is successful then the necessity of proceeding further with the DVC or the appeal would not arise. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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The Principal Sessions Judge at Puducherry.

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V.LAKSHMINARAYANAN,J.



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