



C.R.P(MD)No.2278 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.2278 of 2024

1.N.R.Anand

S.Nadarajan (Died)

2.Saroja

3.N.R.Sasikala

4.N.R.Jamuna

... Petitioners / Appellants /
Respondents / Respondents

Vs.

Premakala

... Respondent / Respondent/
Petitioner / Petitioner

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal District and sessions Court, Kanyakumari at Nagercoil to number the unnumbered C.A.No. of 2024 in Crl.M.P.No.2505 of 2021 in DVC.No.18 of 2021 which was returned on 19.03.2024 and decide the same on merits in accordance with in a time frame fixed by this Court.

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For Petitioners : Mr.M.Ashok Padmaraj

ORDER

Heard the learned counsel appearing for the revision petitioners.
Issuance of notice to the respondent is dispensed with.

2.The respondent herein filed D.V.C.No.18 of 2021 on the file of the learned Judicial Magistrate, Eraniel under the provisions of the Protection of Women from Domestic Violence Act, 2005. She filed CrI.M.P.No.2505 of 2021 seeking interim maintenance. The revision petitioners herein who have been arrayed as respondents in the complaint failed to file any counter. Hence, the Court below allowed the petition and directed the first petitioner herein to pay a sum of Rs.15,000/- per month. Questioning the same, the petitioners herein filed criminal appeal before the Principal District and Sessions Court, Kanyakumari. The appellate Court declined to number the appeal by pointing out certain defects.



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3.The learned counsel for the petitioners state that the procedural defect has since been complied with and yet the appeal is not being numbered.

4.The primary defect pointed out by the Sessions Court is that the appeal may not be maintainable since exparte order was passed in CrI.M.P.No.2505 of 2021.

5.I am satisfied that this Civil Revision Petition has to be allowed. Section 29 of the Protection of Women from Domestic Violence Act, 2005 reads as follows:

“29. Appeal.—There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.”

The above provision is to the effect that an order passed by a Magistrate is amenable to challenge in the form of an appeal before the Sessions Court. Section 29 does not distinguish between interim order and final order. Likewise it does not distinguish between contested order and non-



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contested order. If a party to the complaint is aggrieved by any order passed by the Magistrate, it can be questioned by way of an appeal before the Sessions Court.

6.In this view of the matter, I direct the learned Principal District and Sessions Judge, Kanyakumari to number the appeal. The revision petitioners may however have to make amendments in the cause title. This is because the interim maintenance order has been passed only against the first petitioner herein. He alone can be said to be aggrieved individual. Hence all the revision petitioners need not be shown as appellants in the Criminal Appeal filed under Section 29 of the Protection of Women from Domestic Violence Act, 2005.

7.This Civil Revision Petition is allowed accordingly. There shall be no order as to costs.

23.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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The Principal District and sessions Court,
Kanyakumari,
Nagercoil.



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G.R.SWAMINATHAN, J.

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