



C.R.P.(PD)No.3687 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.01.2025**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.3687 of 2024
and C.M.P.No.20003 of 2024

S.Saravanan

.. Petitioner

Vs

R.Nirmala

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records of the lower Court and terminate the proceedings initiated in Crl.M.P.No.9712 of 2023 in D.V.C.No.19 of 2020 on the file of the Additional Mahila Court, Namakkal and allow this civil revision petition.

For Petitioner : Mr.S.Govindarajulu

For Respondent : Mr.T.Saikrishnan



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ORDER

This civil revision petition challenges the proceedings initiated by the wife in CrI.M.P.No.9712 of 2023 in D.V.C.No.19 of 2020.

2. There is no dispute in the relationship between the parties. The petitioner is the husband and the respondent is the wife. The wife presented D.V.C.No.19 of 2020 on the file of the Additional Mahila Court at Namakkal seeking several reliefs under the provisions of the Domestic Violence Act. The learned Judicial Magistrate-cum-Additional Mahila Judge, after hearing both sides, allowed the application on 12.04.2022.

3. Aggrieved by the same, the husband has preferred an appeal before the I Additional District and Sessions Court, Namakkal in CrI.A.No.46 of 2022. The order passed by the Mahila Court has not been stayed by the Appellate Court. Hence, the wife filed an application in CrI.M.P.No.9712 of 2023 in D.V.C.No.19 of 2020 invoking Section 421 of the Cr.P.C. before the Additional Mahila Court at Namakkal.



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4.Challenging the same, this civil revision petition has been presented by the husband.

5.I heard Mr.S.Govindarajulu for the civil revision petitioner and Mr.T.Saikrishnan for the respondent.

6.The plea of Mr.S.Govindarajulu is that the question of issuance of distress warrant or attachment of the property would not arise, since an appeal is pending before the learned Additional District Judge at Namakkal. He states the initiation of the proceedings in Crl.M.P.No.9712 of 2023 pending the appeal violates the principles of *lis pendens*. Hence, he seeks an order from this Court to terminate Crl.M.P.No.9712 of 2023.

7.Per contra, Mr.T.Saikrishnan points out that the order passed in the domestic violence petition has not been kept in abeyance. As the wife has not been in a position to enjoy the benefits of the order that has accrued to her on 12.04.2022, she invoked the provisions of the Criminal Procedure Code in order to enforce the said order.

8.I have considered the submissions of both sides. I have carefully gone through the entire records.



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9. Mere pendency of an appeal does not result in the order of the Trial Court being kept in a suspended animation. The appellant should have moved an appropriate application seeking stay of further proceedings of the impugned order before the Appellate Court. Only if an order of stay or such other orders are passed by the Appellate Court, the initiation of the proceedings under Section 31 of the Domestic Violence Act can be avoided. That situation has not arisen here. It is not in dispute that the appeal is pending. Unless and until the husband obtains an order of stay in the appeal, he cannot plead the initiation of the proceedings, by invoking Section 421 of the Cr.P.C. read with Section 31 of the Protection of Women from Domestic Violence Act, is illegal.

10. As I have already pointed out, mere pendency of an appeal does not operate as an automatic stay of the order passed by the Trial Court.

11. In the light of the above discussion, I find no reason to entertain this civil revision petition. It is open to the husband to move an appropriate application seeking stay before the Appellate Court, in which his appeal, against the order of the Trial Court is pending. If such



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an application is filed, it is always open to the wife to urge that there are arrears of maintenance and that stay must be granted only after imposition of condition.

12. With the above observations, the civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.01.2025

Index: Yes/No

(2/2)

Speaking order/Non-speaking order

Neutral Citation : Yes/No

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To

The Additional Mahila Court, Namakkal.



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V. LAKSHMINARAYANAN,J.

Kj

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