



C.R.P.(PD)No.5263 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.5263 of 2024

Parthiban

.. Petitioner

Vs.

K.Uma

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 28.10.2024 in M.P.No.1 of 2024 in D.V.A.No.57 of 2022 on the file of the learned Principal District and Sessions Judge at Coimbatore.

For Petitioner : Mr.K.Balasubramaniam

ORDER

This civil revision petition challenges the order passed by the learned Principal District and Sessions Judge, Coimbatore in M.P.No.1 of 2024 in un-numbered appeal of 2024.



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2. The proceedings arose before the learned Principal District and Sessions Judge at Coimbatore from the order passed by the learned Judicial Magistrate, Special Court to try the cases filed under the Protection of Women from Domestic Violence Act, Coimbatore, in C.M.P.No.18637 of 2022 in D.V.A.No.57 of 2022, dated 07.11.2023.

3. The relationship between the parties is not in dispute. They are husband and wife. Due to disputes and differences, the parties have separated. The wife initiated D.V.A.No.57 of 2022 against the civil revision petitioner. She sought for an order of protection, compensation, maintenance, return of her jewels as well as reimbursement of the marriage expenses.

4. Pending the proceedings, the wife filed an application in C.M.P.No.18637 of 2022 in D.V.A.No.57 of 2022 seeking a direction to the husband to pay a maintenance of a sum of Rs.25,000/- per month. The said application was allowed by the learned Trial Judge on 07.11.2023 directing the husband to pay a sum of Rs.15,000/- per month towards interim maintenance.



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5. Though an appeal has to be filed within 30 days from the date of receipt of a copy of the order under Section 29 of the Protection of Women from Domestic Violence Act, the husband did not prefer an appeal in time. He preferred an appeal with the delay of 142 days. The reason for the delay was allegedly on account of the fact that the husband was suffering from fever and cough and was bedridden. Apart from that, he pleaded that he had been arrested in Crime No.522 of 2022 by the Thudialur Police Station in Coimbatore and was remanded in judicial custody from 10.01.2024 to 18.04.2024. Yet again, he was arrested by Peelamedu Police Station in Crime no.279 of 2024. Hence, he could not file an appeal under Section 29 in time.

6. The application to condone the delay was numbered as M.P.No.1 of 2024. Notice was ordered in the application and it was strongly opposed by the respondent/wife.

7. The learned Appellate Judge came to a conclusion that the length of delay is not a criteria and that she wanted to give an opportunity to the husband to contest the proceedings. Yet taking note of the fact that it was an appeal against an order of interim maintenance, she



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directed the husband to deposit a sum of Rs.75,000/- in D.V.A.No.57 of 2022 before the Trial Court within a period of one month.

8. Aggrieved by the said order, the husband is on revision before me.

9. I heard Mr.K.Balasubramaniam for the civil revision petitioner.

10. Mr.K.Balasubramaniam urges that the condition for deposit of Rs.75,000/- towards maintenance is onerous and it requires to be interfered with. He relies upon the order of bail granted by the learned Judicial Magistrate at Coimbatore to point out that the petitioner was not in a position to challenge the order from January, 2024 till April, 2024 as he was undergoing incarceration. Hence, he pleads that the revision be allowed and the order be modified.

11. I have considered the submissions of Mr.K.Balasubramaniam. I have carefully perused the entire records.

12. Here is a case where the husband has been given a right of an appeal by virtue of Section 29 of the Protection of Women from Domestic Violence Act, 2005. The delay is condonable. The petitioner



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has given a cause, which was found sufficient by the lower appellate Court. At the time of exercising a discretion, a Court is entitled to impose conditions on a party. This is a discretionary order exercised by the learned Appellate Judge.

13. After perusal of the papers, the learned Appellate Judge, who is the senior most District Judge, with sufficient experience, has come to a conclusion that the interest of both the petitioner/husband and the respondent/wife has to be balanced. Accordingly, she has imposed a condition that a sum of Rs.75,000/- namely, 5 months of the maintenance amount has to be deposited before the Trial Court. The arrears actually amount to more than 25 months. The learned Appellate Judge has only fixed 1/5th of the said period. Hence, I do not find anything excessive or arbitrary in the said order requiring interference by this Court.

14. At this stage, Mr.K.Balasubramaniam pleads that his client earns only Rs.35,000/- per month and is not in a position to deposit a sum of Rs.75,000/- in one go. He pleads that if the amount is directed to be deposited in two instalments, he will comply with the same.



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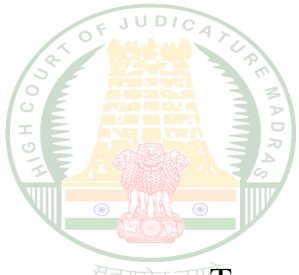
15. Therefore, while confirming the order of the learned Appellate Judge, I am inclined to permit the petitioner to deposit Rs.75,000/- directed by the Appellate Court in two equal instalments. The first instalment shall be deposited on or before **31.01.2025** and the 2nd instalment shall be deposited on or before **28.02.2025**.

16. In case the amounts are not deposited within the extended period granted by this Court, the benefit of extension of time granted by this order will not enure in favour of the civil revision petitioner.

17. With the above directions, the civil revision petition stands dismissed. The time granted alone is modified and in all other aspects, the order of the learned Appellate Judge stands confirmed. No costs.

10.01.2025

Index:Yes/No
Internet:yes/No
Neutral Citation:Yes/No
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The Principal District and Sessions Judge at Coimbatore.



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V.LAKSHMINARAYANAN,J.

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