



Crl.R.C(MD)No.636 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.12.2024

Pronounced on : 12.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.636 of 2022

and

Cr.M.P(MD)No.8023 of 2022

Maraiappan

... Petitioner

Vs.

1.Sathiyavathi

2.Minor Lokeswaran

... Respondent

PRAYER: This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order, dated 30.05.2022 made in Crl.A.No.2 of 2022 on the file of the Mahila Court (Fast Track Court), Thanjavur and the order, dated 22.10.2021 made in Cr.M.P.No.545 of 2021 in D.V.C.No.12 of 2020 on the file of the District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur and set aside the same.

For Petitioner : Mr.T.Antony Arulraj

For Respondents : Mr.S.Chellapandian



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ORDER

This Criminal Revision Case is filed against the order, dated 30.05.2022 made in Crl.A.No.2 of 2022 on the file of the Mahila Court (Fast Track Court), Thanjavur, confirming the order, dated 22.10.2021, passed in Crl.M.P.No.545 of 2021 on the file of the District Munsif-cum-Judicial Magistrate Court, Thiruvudaimaruthur and to set aside the same.

2.The brief facts of the case:

The revision petitioner and the first respondent are husband and wife. Their marriage was solemnized on 20.06.2003 and out of wedlock, the second respondent was born to them. It is alleged that as the first respondent was harassed by the petitioner and his family members, the first respondent was driven out from her matrimonial home and she is living separately along with her minor male child. The first respondent filed D.V.Case No.12 of 2020 against the petitioner and his family members before the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur, seeking shelter, maintenance and other reliefs under the Domestic Violence Act. Pending the main case, the first respondent filed Crl.M.P.No.545 of 2021 in D.V.C.No.12 of 2020 for interim maintenance of Rs.20,000/- and interim shelter. The petitioner contested the petition. After hearing both, the learned District Munsif-cum-Judicial



Magistrate, Thiruvudaimaruthur partly allowed the petition directing the revision petitioner to pay Rs.4,000/- p.m. each to the respondents from the date of filing the petition and also to arrange shelter for them. Being aggrieved by the same, the revision petitioner preferred the Criminal Appeal in Crl.A.No.2 of 2022 before the Mahila Court (Fast Track Court), Thanjavur and the appeal was dismissed on 30.05.2022. Challenging the order of dismissal of the Criminal Appeal, the revision petitioner has preferred this present Criminal Revision Case.

3. Heard the learned counsel appearing for the revision petitioner and the respondents.

4. The learned counsel appearing for the revision petitioner has submitted that the first respondent has to prima facie satisfy the Court in respect of the commission of Domestic Violence as defined in Section 3 of the Act. Further, shelter can be granted only if the first respondent has no other shelter other than the shared house. Admittedly, the first respondent is safely residing along with her parents. Mere allegations in the interim petition were alone considered by the Courts below which is not sustainable in law. The revision petitioner is working as a daily wager and the same was not considered by the Courts below. The first



respondent has not let in any material to substantiate her claim of interim maintenance and shelter. The divorce petition is pending between the parties. The revision petitioner has no permanent residence.

5. The learned counsel for respondents argued that the first respondent filed sworn affidavit regarding the allegation of domestic violence committed at the instance of the petitioner and his family members. The main DV case has been filed and taken on file by the concerned Judicial Magistrate Court. Whiles, as per Section 23 of the Act, the trial Court correctly directed for interim maintenance and shelter. The revision petitioner has to pay a total interim maintenance of Rs.2,16,000/- out of which, he paid only Rs.1,44,000/- and the balance is still due. To drag the proceedings, the petitioner has filed this criminal revision against the concurrent decision of the Courts below.

6. On hearing and perusal of records, it is clear that the petitioner and the first respondent are husband and wife and the second respondent was born to them. It is also not in dispute that both the revision petitioner and the respondents are living separately. It is also not disputed that the first respondent has filed DVC.No.12 of 2020 and the revision petitioner has filed HMOP.No.111 of 2020 for divorce. Such being circumstances,



the revision petitioner being the husband of the first respondent and father of the 2nd minor respondent is duty bound to maintain them.

7. The first respondent states that the trial Court has directed to pay only Rs.4,000/- each to the respondents and there is also still balance to be paid and considering the cost of living prevailing at present, the interim maintenance is not high. The submission of the respondents' side cannot be brushed aside as there is no substance. The main DV case and divorce case are still pending. The revision petitioner has admitted the same and has also admitted that there is pending due for payment of interim maintenance. As per provisions of the D.V.Act, the trial Court has taken into consideration of relevant materials for passing the interim protection pending finalisation of the main case and also correctly applied the legal principles on the subject matter. The lower Appellate Court has also rightly confirmed the order of the trial Court since there was no infirmity in the order passed by the trial Court. This Court does not find anything wrong in the orders of the Courts below to interfere by way of this revision. Thus, this criminal revision case fails and the same is liable to be dismissed.



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8. In the result, this Criminal Revision Case is dismissed.

Consequently, the connected Miscellaneous Petition is closed.

12.02.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD

To

1.The Mahila Court (Fast Track Court),
Thanjavur.

2.The District Munsif-cum-Judicial Magistrate,
Thiruvudaimaruthur.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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